



Doc#: 0726402171 Fee: \$40.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/21/2007 01:07 PM Pg: 1 of 9

LHYNES #83-52-462-D1

MORTGAGE

THIS MORTGAGE (this "Mortgage") is given on SEPT. 20, 2007. The mortgagor is MAHOGANY CHICAGO 47, LLC, an Ohio limited liability company ("Mortgagor"), with its principal address at 4270 Morse Road, Columbus, Ohio 43230. This Mortgage is given to LOCAL INITIATIVES SUPPORT CORPORATION, a New York not-for-profit corporation, with its principal address at 501 Seventh Avenue, 7th Floor, New York, New York 10018 ("Lender"). Mortgagor owes Lender the principal sum of One Million Dollars (\$1,000,000) or so much thereof as may be disbursed by Lender. This debt is evidenced by Mortgagor's note, dated as of ^{July 2007} ~~even date herewith~~ (the "Note") in the principal amount of \$1,000,000. This Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under Section 6 to protect the security of this Mortgage; and (c) the performance of Mortgagor's covenants and agreements under this Mortgage and the Note. For this purpose, Mortgagor does hereby mortgage, grant and convey to Lender the property described in Exhibit A attached hereto and a part hereof, located in Cook County, Illinois;

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil or gas rights and profits, water, water rights and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property are herein referred to as the "Property."

This Mortgage prepared by and after recording return to:

Richard Pinner, Esq.
Local Initiatives Support Corporation
501 Seventh Avenue, 7th Floor
New York, New York 10018
LISC 43801-0001

qhc

Box 400-CTCC

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It is understood and agreed that Lender may, from time to time, make loans to the Mortgagor, and that such loans and advances and the interest thereon shall be secured by this Mortgage, provided that aggregate principal amount of the loan shall at no time exceed \$2,000,000.

COVENANTS

Mortgagor and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Mortgagor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, together with any fees and charges as provided in the Note or this Mortgage.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under Section 1 shall be applied by Lender first in payment of any advance made by Lender pursuant to this Mortgage, then to interest, fees and charges due under the Note, then to the principal amount outstanding under the Note.

3. **Charges; Liens.** Mortgagor shall pay, or cause to be paid, all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, including all payments due under any mortgage disclosed by the title insurance policy insuring Lender's interest in the Property. Mortgagor shall, upon request of Lender, promptly furnish to Lender receipts evidencing such payments.

Mortgagor shall promptly discharge any lien which has priority over this Mortgage, except for the lien of any mortgage disclosed by the title insurance policy insuring Lender's interest in the Property, provided that Mortgagor shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate or prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

4. **Hazard Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as Lender may require, and in such amounts and for such periods as Lender may require, provided that Lender shall not require that the amount of such coverage exceeds that amount of coverage required to pay the sums disbursed by Lender with respect to the Property and secured by this Mortgage and any other mortgage on the Property.

The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to approval by Lender, provided that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in a timely manner.

All insurance policies and renewals thereof shall be in form acceptable to Lender, and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Upon request of Lender, Mortgagor shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Mortgagor.

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Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible, and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible, or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor, or if Mortgagor fails to respond to Lender within 30 days from the date of notice from Lender to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option, either to restoration or repair of the Property, or to the sums secured by this Mortgage.

Unless Lender and Mortgagor otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of any payments due under the Note, or if the Property is acquired by Lender, all right, title and interest of Mortgagor in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

5. **Preservation and Maintenance of Property.** Mortgagor shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property.

6. **Protection of Lender's Security.** If Mortgagor fails to perform the covenants and agreements contained in this Mortgage within thirty (30) days of the date of notice from Lender to Mortgagor, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, any proceeding brought by or on behalf of a prior mortgagee, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender, at Lender's option upon notice to Mortgagor, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this Section 6, with interest thereon, shall become additional indebtedness of Mortgagor secured by this Mortgage, provided that such amounts do not exceed two hundred percent (200%) of the face amount of the Note. Unless Mortgagor and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at the Note rate. Nothing contained in this Section 6 shall require Lender to incur any expense or take any action hereunder.

7. **Inspection.** Lender may make, or cause to be made, reasonable entries upon and inspections of the Property, provided that Lender shall give Mortgagor notice prior to any such inspection, specifying reasonable cause therefor related to Lender's interest in the Property.

8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. In the event of a total or partial taking of the Property, the proceeds shall be applied to sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. Lender shall execute a reasonable partial release of this mortgage as to any portions so condemned or sold in lieu of condemnation.

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With a copy to: Local Initiatives Support Corporation
 1 N. LaSalle Street, Suite 1200
 Chicago, Illinois 60602
 Attention: Program Director
 (312) 360 - 0800 TELEFAX: (312) 360 - 0183

To Mortgagor: Mahogany Chicago 47, LLC
 4270 Morse Road
 Columbus, Ohio 43230
 Attention: Frank R. Petruziello
 (614) 418-3100 TELEFAX: (614) 418-3101

14. **Governing Law; Severability.** This Mortgage shall be governed by the laws of the State of Illinois. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

15. **Hazardous Substances.** Mortgagor represents and warrants to Lender that the Property and the use and operation thereof, are currently in compliance with all Environmental Laws except as otherwise disclosed to Lender in writing. Mortgagor represents and warrants to Lender that no generation, manufacture, storage, treatment, transportation or disposal of Hazardous Substances is occurring or, to its knowledge, has occurred, on or from the Property, except in compliance with all laws.

Mortgagor represents and warrants to Lender that no environmental or public health or safety hazards currently exist with respect to the Property or the business or operations conducted thereon except as otherwise disclosed to Lender in writing. Mortgagor represents and warrants to Lender that to its knowledge no underground storage tanks (including petroleum storage tanks) are present on or under the Property, and no portion of the Property used as a landfill or waste dump. To the extent underground storage tanks exist, Mortgagor shall remove them in accordance with applicable law. There are no pending or, to the best of Mortgagor's knowledge, threatened: (i) actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Property or the disposal or presence of Hazardous Substances, or regarding any Environmental Laws; or (ii) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Property.

Mortgagor shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substances on or in the Property except in compliance with all laws. Mortgagor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal commercial retail uses and to the construction and maintenance of the Property.

Mortgagor shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Mortgagor has actual knowledge. If Mortgagor

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learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this Section 15, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Section 15, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

16. **Transfer of the Property; Assumption.** If all or any part of the Property or an interest therein is sold, transferred or conveyed by Mortgagor without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage; or (b) the creation of a purchase money security interest for household appliances. Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable.

17. **Acceleration; Remedies.** Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Mortgage or the Note within thirty (30) days of notice of such breach, including the covenants to pay when due any sums secured by this Mortgage, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand, 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 of documentary evidence, abstracts and title reports.

18. **Assignment of Rents; Appointment of Receiver; Lender in Possession.** As additional security hereunder, Mortgagor hereby assigns to Lender the rents of the Property, provided that Mortgagor shall, prior to acceleration under Section 17 or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under Section 17 or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, in person, by agent or by judicially-appointed receiver, shall be entitled to enter upon, take possession of and manage the Property, and to collect the rents of the Property, including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of the rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

19. **Release.** Upon payment of all sums disbursed by Lender with respect to the Property and secured by this Mortgage, Lender shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordation, if any.

20. **Waiver of Statutory Rights.** Notwithstanding anything to the contrary contained herein, Mortgagor shall not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws" now existing or hereafter enacted, in order to prevent or hinder the

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enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor does hereby expressly waive any and all rights of redemption under any order or decree of foreclosure of this Mortgage on behalf of the Mortgagor, and each and every person, except decree of judgment creditors of the Mortgagor, acquiring any interest in or title to the Property subsequent to the date of this Mortgage.

If any provision in this Mortgage is inconsistent with any provision of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, et seq., Illinois Revised Statutes (the "Foreclosure Act"), the provision of the Foreclosure Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Act.

If any provision of this Mortgage shall grant to Lender any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Lender under the Foreclosure Act in the absence of that provision, Lender shall be vested with the rights granted in the Foreclosure Act to the full extent permitted by law.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage.

MAHOGANY CHICAGO 47, LLC

By:


Name: Frank R. Petruziello

Title: Manager

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OHIO)
STATE OF ~~ILLINOIS~~)
FRANKLIN) SS.
COUNTY OF ~~COOK~~)

I, the undersigned, a Notary Public in and for said county and state, do hereby certify that Frank R. Petruziello, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as Manager of Mahogany Chicago 47, LLC, an Ohio limited liability company, appeared before me this day in person and acknowledged that (he/she) signed and delivered the said instrument as the free and voluntary act of said Manager for the uses and purposes therein set forth.

Given under my hand and notarial seal this September 19, 2007.

Audra L. Cordell
Notary Public

My Commission Expires: 12/10/10



AUDRA L. CORDELL
Notary Public, State of Ohio
My Commission Expires 12-10-10

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CHICAGO TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE SCHEDULE A (CONTINUED)

ORDER NO.: 1401 008352462 D1

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

LOT 2 IN GEORGE B. UPP'S SUBDIVISION OF LOTS 35 TO 38 IN THE SUBDIVISION OF LOTS 1 AND 2 IN STONE & MCGLASHAN'S SUBDIVISION OF THE NORTH 1/2 OF NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN #
20-10-206-008-0000
K.A. 4727 S. EVANS, Chicago, IL.

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