

UNOFFICIAL COPY



0815145168

Doc#: 0815145168 Fee: \$86.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/30/2008 12:52 PM Pg: 1 of 26

Unit Number

150

Property Index Number (PIN)

03-24-202-025-1050

*This Recording is 26 pages
Including This Cover Page.*

Property of Cook County Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION

UNIT 250 TOGETHER WITH ITS UNDIVIDED PERCENT AGE INTEREST IN OLD WILLOW FALLS CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE:

PARCEL 1:

THE EAST 506.52 FEET OF THE WEST 1526.52 FEET OF THE FOLLOWING DESCRIBED TRACT: THE SOUTH 53 ACRES OF THE NORTHEAST ¼ OF SECTION 24, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT OF MUTUAL EASEMENTS BY AND BETWEEN THE EXCHANGE NATIONAL BANK OF CHICAGO AS TRUSTEE UNDER TRUST NUMBER 15266, TRUST NUMBER 15497 AND TRUST NUMBER 15498 AND BEVERLY SAVINGS AND LOAN ASSOCIATION DATED MARCH 13, 1963 AND RECORDED MARCH 18, 1963 AS DOCUMENT NUMBER 18745223 FOR INGRESS AND EGRESS AS A PRIVATE DRIVEWAY OVER THE SOUTH 2 RODS OF THE FOLLOWING DESCRIBED TRACT: THE SOUTH 53 ACRES OF THE NORTHEAST ¼ OF SECTION 24, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (EXCEPTING THEREFROM THAT PART LYING EAST OF THE WESTERLY LINE OR RIVER ROAD AS NOW LOCATED, AND ALSO EXCEPTING THEREFROM THAT PART IN THE WEST 1526.52 FEET OF SAID NORTHEAST ¼), ALL IN COOK COUNTY, ILLINOIS.

WHICH PLAT OF SURVEY IS ATTACHED AS EXHIBIT D TO THE DECLARATION OF CONDOMINIUM MADE BY FIRST NATIONAL BANK AND TRUST COMPANY OF EVANSTON, NOT PERSONALLY, BUT AS TRUSTEE UNDER TRUST AGREEMENT DATED OCTOBER 10, 1971 AND KNOWN AS TRUST NUMBER R-1540 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER 25090133.

**870 E. OLD WILLOW ROAD, UNIT 250
PROSPECT HEIGHTS, IL 60070
PIN NO. 03-24-202-025-1138**

UNOFFICIAL COPY

AGREEMENT

This agreement is made and entered into this 26th day of January, 2004, by and between David M. Zimmeroff and Carlos Meza, referred to hereinafter as David and Carlos respectively.

Agreement:

1. Carlos has entered into an agreement to purchase 10 condominium units at 850-880 East Old Willow Road, Prospect Heights, IL 60070, commonly known and described as
 Unit 114 at 850, Units 122, 124 at 860, Units 150, 156, 158, 250 at 870, and Units 170, 172, and 178, at 880,
 for the total purchase price of \$900,000.00, title to be taken in the name of David, or nominee.
2. Purchase price will be funded by David advancing \$185,000.00, and borrowing \$720,000.00, from the Charter National Bank that will be secured by a blanket first mortgage on all of the units, amortized over a period of 30 years with a 5-year balloon.
3. Carlos will manage the property without fee and shall be responsible to collect rents and disburse all expenditures on the property, including but not limited to, first mortgage payments, insurance, condo assessments, utilities, rehabilitation, maintenance and repair of the units, plus the payment to David of ten percent (10%) per annum on the \$185,000.00 or such other amounts from time to time invested by David. Payments to David shall be made on the 15th day of each month commencing with the month following the closing.
4. Carlos shall be responsible for any deficiency of income to meet the expenditures as they fall due and shall advance funds to cure the deficiencies if and when required. Out of proceeds of the sale of the units, Carlos shall be reimbursed for any funds he advanced as set forth in paragraph 6.
5. Carlos shall maintain accounts and give David an accounting of all expenses and income within 30 days following the end of each month. Except for payment of the Charter loan, real estate taxes and condo association dues, Carlos shall not incur a single expenditure of \$1,000.00, or more, without the prior written consent of David.
6. The purpose of the venture is to rehabilitate the units and place them for sale. The proceeds available from the sale of a unit shall be distributed as follows:
 - a) to Charter Bank to pay the mortgage due on such unit;
 - b) to David, \$18,500 plus the interest due thereon;
 - c) to Carlos, reimbursement of all advances made on and for the units, plus interest at the rate of 10% per annum on such advanced amounts;
 - d) the balance shall be shared equally between the parties.

UNOFFICIAL COPY

7. Title to the units shall be taken in David's name or a nominee designated by David. David's responsibility to the venture shall be to take title, sign or guarantee as the case may be, the first mortgage at Charter, advance \$185,000.00 toward the purchase of the units, and to determine when, how and at what price to sell the condo units. To the extent that it will not violate terms of the Charter mortgage, Carlos may be added to title.

8. Carlos does hereby agree to indemnify David for the repayment of the loan from Charter, including all charges and interest thereof, and the repayment to David of the \$185,000.00 advanced by David, plus interest thereon at 10% per annum, until paid.

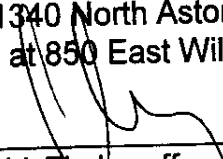
9. As additional security for the repayment of the loan to Charter and reimbursement to David of \$185,000.00 plus interest thereon, Carlos' mother, Gladys McPherson, (Gladys) shall execute a guarantee agreement agreeing to repay the loan to Charter and funds to David, by giving a first mortgage to David on two condo units owned by her, i.e.,

Unit 1 E 6123 North Seely, Chicago, IL. 60659 PIN 14 06 121 011 1076, and
Unit 171, 880 East Old Willow Rd. , Prospect Heights, IL. 60070, PIN 03 24 202
025 1071

to secure said guarantee, which mortgages shall be in place until repayment of the Charter loan and repayment to David as aforesaid is made. Gladys' liability shall not exceed the value of the condos given as part of the guarantee. The parties believe the total value of both condos to be \$225,000.00.

10. Attorneys fees shall be awarded the prevailing party should either party be required to bring an action to enforce or interpret this Agreement.

11. All notices to the parties shall be made to David by e-mail at Zgulls@aol.com, and at 1340 North Astor Street; #2706; Chicago, IL 60610; to Carlos at mezanetsys@aol.com and at 850 East Willow Falls Road; #115; Prospect Heights, IL 60070.



David Zimmeroff

 1.26.04

Carlos Meza

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IN THE COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

MAY 09 AM 0:46

DAVID ZIMBEROFF

Plaintiff,

v.

GLADYS MCPHERSON,

Defendants/Counter Plaintiff

CARLOS MEZA

Counter Plaintiff

v.

DAVID ZIMBEROFF

Plaintiff/Counter Defendant,

CLERK OF COURT
COUNTY CLERK

Case No. 07 CH 37726

MOTION TO INTERVENE

FACTS

1. Meza v. Zimmeroff involves an agreement between Carlos Meza, Counter Plaintiff, hereinafter referred to as "Meza") and David Zimmeroff (hereinafter referred to as "Plaintiff/Counter Defendant") to form Old Willow Falls FH LLC (hereinafter referred to as "the Agreement"). The purpose of the Agreement was to purchase and resell ten condominium units. In consideration for the Agreement, Plaintiff/Counter Defendant would contribute equity in the amount of one hundred eighty-five thousand dollars (\$185,000.00).
2. This contribution is the subject of Zimmeroff v. McPherson as it represents the mortgage that Plaintiff/Counter Defendant seeks to foreclose upon.

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3. In consideration for the Agreement, Meza would (1) manage the property free of fee and collect all rents, (2) advance all expenditures associated with the property, (3) pay interest on the outstanding balance of Plaintiff/Counter Defendant's contribution at a rate of 10% per annum, (4) provide monthly accounting of expenditures to Plaintiff/Counter Defendant, (5) not exceed individual expenditures greater than one thousand dollars (\$1,000) without Plaintiff/Counter Defendant's consent and (6) repay Plaintiff/Counter Defendant his initial contribution from the proceeds of the sale of the condominium units.
4. According to the Agreement, after the sale of each unit, the Charter Bank loan was to first be pro-rata reduced, Plaintiff/Counter Defendant would be repaid an amount equal to 10% of his initial contribution, after which Meza was to receive reimbursement for his expenditures. Any remaining money was to be shared equally between the parties.
5. Meza contends that all of his obligations are current and not in default. Therefore, absolving Gladys McPherson of any duty to pay.

ARGUMENT

Section 735 ILCS 5/2-404 states that "all persons may join in one action as plaintiffs, in whom any right to relief in respect of or arising out of the same transaction or series of transactions ... any common question of law or fact [exists]... [and] upon the application of any party, [joinder does not] embarrass or delay the trial of the action."

735 ILCS 5/2-404.

Furthermore, "a necessary party is one whose presence is required for any one of three reasons: (1) to protect an interest that the absent person has in the subject matter of

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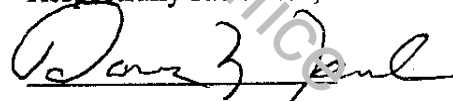
the controversy that would be materially affected by a judgment entered in his absence;
 (2) to reach a decision that will protect the interests of those parties before the court; and
 (3) to enable the court to make a complete determination of the controversy.” *In re Marriage of Lerner* 316 Ill. App. 3d 1072, 1078 738 N.E.2d 183 (1st Dist. 2000).

Carlos Meza’s joinder to this action is necessary to protect his interests and to enable the court to make a complete determination of the controversy. The issue in *Meza v. Zimmeroff* arises out of the same transaction or set of transactions as *Zimmeroff v. McPherson*. Allowing Meza to intervene and join as a necessary party will not delay the trial of this action. As a result, this Honorable Court should allow Carlos Meza to join as a necessary party Counter Plaintiff in this action against David Zimmeroff.

WHEREFORE: Carlos Meza respectfully moves this Honorable Court to allow him to join as a necessary Counter Plaintiff in this action against David Zimmeroff.

Dated: May³⁰, 2008

Respectfully submitted,



DAVID W. TRAILOV

Pinnacle Law P.C.
 David W. Trailov
 Attorney No. 44624
 4119 N. Kenmore, Suite 311
 Chicago, IL 60613
 (773) 230-4417

UNOFFICIAL COPY

IN THE COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

DAVID ZIMBEROFF)
)
 Plaintiff,)
)
 v.)
)
 GLADYS MCPHERSON)
)
 Defendants/Counter Plaintiff)
 _____)
 CARLOS MEZA)
)
 Counter Plaintiff)
)
 vi.)
)
 DAVID ZIMBEROFF)
)
 Plaintiff/Counter Defendant,)

Case No. 07 CH 37726

RECEIVED
 CHANCERY DIVISION
 JUNE 2 2009
 11:04 AM

To:
 Noah Weininger
 Attorney for Plaintiff/Counter Defendant
 Hauselman, Rappin, & Olswang, LTD.
 39 South La Salle Street, Suite 1105
 Chicago, Illinois, 60603

NOTICE OF MOTION

PLEASE TAKE NOTICE that on June 2 at 2:00pm, or as soon after that time as counsel can be heard, I will appear in room 2801, before Honorable Judge Atkins, at the Richard J. Daley Center at 50 W. Washington, and file the attached, CARLOS MEZA will move the court for leave to intervene as Counter Plaintiff in the above-entitled action on the ground that he has a claim against the above-named Plaintiff/Counter Defendant that involves the same questions of law and fact that are involved in the original counter claim, and that intervention to assert the claim will not unduly delay or prejudice the adjudication of the rights of the original parties. The claim of Carlos Meza is set out in the attached proposed Counter Complaint in intervention.

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The motion will be based on this notice, the attached verification of *Carlos Meza* and on all the pleadings and records previously filed in this action.

Dated May 30, 2008

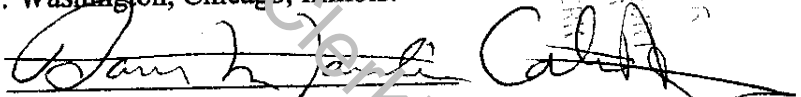
Respectfully Submitted,


DAVID W. TRAILOV

Pinnacle Law P.C.
David W. Trailov
Attorney No. 44624
4119 N. Kenmore Avenue, Suite 311
Chicago, IL 60613
(773) 230-4417

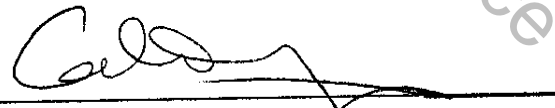
NOTICE OF FILING

PLEASE TAKE NOTICE that on May 30, 2008, I will appear and file the attached **MOTION TO INTERVENE** with the Clerk of the Circuit Court of Cook County, at the Daley Center, at 50 W. Washington, Chicago, Illinois.


Cortne Anway

CERTIFICATE OF SERVICE

The undersigned affirms and states that she served the foregoing by personally serving a copy to all parties listed on May 30, 2008.


Cortne Anway

Pinnacle Law P.C.
David W. Trailov
Attorney No. 44624
4119 N. Kenmore, Suite 311
Chicago, IL 60613
(773) 230-4417

FILED
MAY 30 2008
CLERK OF COURT
COOK COUNTY
CHICAGO, ILLINOIS

UNOFFICIAL COPY

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this **Motion to Intervene** and on all the pleadings and records previously filed in this action, case no. **07 CH 37726** are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Counter Plaintiff: Carlos Meza

By: 

Subscribed and Sworn to before me this 28th day of May, 2008.


Notary Public



SEAL

Pinnacle Law P.C.
David W. Trailov
Attorney No. 44624
4119 N. Kenmore, Suite 311
Chicago, IL 60613
773-230-4417

COOK COUNTY CLERK'S OFFICE
JUL 1 2008
11:00 AM
CH 37726

UNOFFICIAL COPY

IN THE COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

MAY 03 2007 8:46

DAVID ZIMBEROFF)
)
 Plaintiff,)
)
 v.)
)
 GLADYS MCPHERSON,)
)
 Defendants/Counter Plaintiff)
)
 _____)
 CARLOS MEZA)
)
 Counter Plaintiff)
)
 v.)
)
 DAVID ZIMBEROFF)
)
 Plaintiff/Counter Defendant,)

CLERK OF COURT
 COURT CLERK
 COURT CLERK

Case No. 07 CH 37726

VERIFIED COUNTER PLAINTIFF'S COUNTER COMPLAINT

NOW COMES THE COUNTER PLAINTIFF, CARLOS MEZA, by and through his attorneys, PINNACLE LAW P.C., and complaining of the PLAINTIFF/COUNTER DEFENDANT, and states as follows:

GENERAL ALLEGATIONS

1. At all relevant times, David Zimmeroff (hereinafter referred to as "Plaintiff/Counter Defendant") was an equity contributor/mortgage originator, and guarantor of Old Willow Falls PH LLC.
2. At all relevant times, Carlos Meza (hereinafter referred to as "Counter Plaintiff") was the managing member of Old Willow Falls PH LLC.
3. At all relevant times, Gladys McPherson (hereinafter referred to as McPherson) acted as co-guarantor of a Charter Bank loan and an equity investment from Counter Defendant.
4. In 2004, negotiations began and both Counter Plaintiff and Plaintiff/Counter Defendant entered into an agreement to form Old Willow Falls PH LLC.

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(Hereinafter referred to as "the Agreement") A true and correct copy of the Agreement is attached hereto as Exhibit A.

5. The purpose of the Agreement was to purchase and resell ten condominium units. (hereinafter referred to as "Property").
6. In consideration for the Agreement, the Plaintiff/Counter Defendant would contribute equity in the amount of one hundred eighty-five thousand dollars (\$185,000.00) (hereinafter "Plaintiff/Counter Defendant's loan") and obtain a mortgage from Charter Bank in the amount of seven hundred twenty thousand dollars (\$720,000.00).
7. As consideration for the Agreement, McPherson signed a mortgage that acted as a guarantee of the Plaintiff/Counter Defendant's one hundred eighty-five thousand dollar (\$185,000) equity contribution, and the Old Willow Falls PH LLC's loan, up to a maximum value of one hundred eighty-five thousand dollars (\$185,000) (hereto attached as Exhibit B).
8. In consideration for the Agreement, Counter Plaintiff would (1) manage the property free of fee and collect all rents, (2) advance all expenditures associated with the property, (3) pay interest on the outstanding balance of the Plaintiff/Counter Defendant's equity contribution at a rate of 10% per annum, (4) provide accounting of expenditures to Plaintiff/Counter Defendant, (5) not exceed an expenditure greater than \$1,000 without Plaintiff/Counter Defendant's consent and (6) repay Plaintiff/Counter Defendant his initial investment of one hundred eighty-five thousand dollars (\$185,000.00) from the ultimate resale of the property.
9. According to the Agreement, after the sale of each unit, the Charter Bank loan was to be paid down first, Plaintiff/Counter Defendant then would receive an amount equal to 10% of the initial equity contribution plus any interest due on that contribution, after which Counter Plaintiff was to receive reimbursement for his expenditures. Any remaining money was to be shared equally between Counter Plaintiff and the Plaintiff/Counter Defendant.

COUNT I: BREACH OF CONTRACT

- 1-9. Counter Plaintiff re-alleges and incorporates paragraphs 1 – 9 of the General Allegations to all counts as paragraphs 1 through 9 of this Count I.
10. In 2004, negotiations began and both Counter Plaintiff and Plaintiff/Counter Defendant entered into an agreement to form Old Willow Falls PH LLC. (Hereinafter referred to as "the Agreement") A true and correct copy of the Agreement is attached hereto as Exhibit A.
11. Old Willow Falls PH LLC began selling units in December 2005.

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12. A total of five units were sold as follows:
 - a. Unit 178, sold in December 2005 for \$128,500.
 - b. Unit 170, sold in December 2006 for \$125,000.
 - c. Unit 172, sold in February 2007 for as of yet undisclosed by the Plaintiff/Counter Defendant.
 - d. Unit 124, sold in May 2007 for \$127,800.
 - e. Unit 156 sold in May 2008, for \$130,000.
13. Counter Plaintiff caused Charter Bank to be paid seventy-two thousand dollars (\$72,000.00) per unit as a reduction of principal on the Charter Bank mortgage.
14. Plaintiff/Counter Defendant incorrectly retained the entire proceeds from the sales including but not limited to the eighteen thousand five hundred dollars (\$18,500) per unit required to satisfy Plaintiff/Counter Defendant's loan; a total of or in excess of the ninety-two thousand five hundred dollars (\$92,500).
15. Plaintiff/Counter Defendant never applied the money he received from the sales of the units to reduce the principal of his loan balance as required by the Agreement.
16. Counter Plaintiff has paid interest at a rate of 10% per annum on the entire original one hundred eighty-five thousand dollars (\$185,000.00) investment.
17. Plaintiff/Counter Defendant never computed the reduction of the principal as required by the Agreement. Counter Plaintiff therefore paid in excess of required the interest payments and principal as required by the agreement.
18. Counter Plaintiff spent in excess of one hundred twenty-four thousand five hundred fifty-three dollars (\$124,553.00) for renovation and repair of the units.
19. Counter Plaintiff has received only forty seven thousand dollars (\$47,000.00) as reimbursement for these renovations and repairs.
20. Counter Plaintiff continues to pay the Charter Bank mortgage as required by the Agreement and the Charter Bank mortgage is not in default.
21. The Agreement states that attorney's fees will be awarded to the prevailing party should either party be required to bring an action to enforce or interpret the Agreement.
22. Counter Plaintiff has suffered damages in that Plaintiff/Counter Defendant has retained far in excess of the correct amount of money due his according to the agreement.

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23. Counter Plaintiff has suffered damages in that Counter Plaintiff has made payments in excess of those required by the Agreement.
24. Counter Plaintiff has suffered damages in that Counter Plaintiff has spent in excess of one hundred twenty-four thousand five hundred fifty-three dollars (\$124,553.00) for renovation and repair of the units and has not received the pro-rata reimbursement as each unit has been sold.
25. Counter Plaintiff has suffered damages in that Counter Plaintiff has paid the Charter Bank mortgage on units that were vacant and has not received the reimbursement as required by the Agreement.
26. Counter Plaintiff has suffered damages in that Counter Plaintiff has been forced to bring this action to collect monies due to him as required by the Agreement.

PRAYER FOR RELIEF

WHEREFORE, Counter Defendant prays this Honorable Court to enter a judgment in its favor and to:

1. Dismiss *Zimberoff v. McPherson* Case No. 07 CH 37726 with prejudice;
2. Order that the proceeds of the sales of the five units in excess of the mortgage reduction as required to be paid to the Counter Plaintiff, according to the terms and conditions of the Agreement.
3. Order that the excess interest paid by Counter Plaintiff to the Plaintiff/Counter Defendant be reimbursed to Counter Plaintiff, according to the terms and conditions of the Agreement.
4. Order that the Plaintiff/Counter Defendant pay to the Counter Plaintiff all expenses paid for renovation and repair of the units, according to the terms and conditions of the Agreement.

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5. Order that the Plaintiff/Counter Defendant pay to the Counter Plaintiff for the mortgage payments made to Charter Bank for vacant units, according to the terms and conditions of the Agreement.
6. Order that Plaintiff/Counter Defendant pay to Counter Plaintiff any and all expenditures not previously referenced herein Counter Plaintiff incurred, according to the terms and conditions of the Agreement.
7. Order that Plaintiff/Counter Defendant pay to Counter Plaintiff any money it has retained in excess of what he is entitled to, according to the terms and conditions of the Agreement.
8. Order that Plaintiff/Counter Defendant pay to Counter Plaintiff interest on any money retained in excess of what he is entitled to, at a rate of 10% per annum.
9. Order that Plaintiff/Counter Defendant pay to Counter Plaintiff proper costs and/or any other costs this Court deems just.

Respectfully submitted,


DAVID W. TRAILOV

May 30, 2008

Pinnacle Law P.C.
David Trailov
Attorney No. 4624
4119 N. Kenmore Ave, Suite 311
Chicago, IL 60613
(773) 230-4417

UNOFFICIAL COPY

IN THE COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

DAVID ZIMBEROFF)

Plaintiff,)

v.)

GLADYS McPHERSON,)

Defendants/Counter Plaintiff)

CARLOS MEZA)

Counter Plaintiff)

vi.)

DAVID ZIMBEROFF)

Plaintiff/Counter Defendant,)

Case No. 07 CH 37726

NOTICE OF FILING

TO:

Noah Weininger
Hauselman, Rappin & Olswang, LTD.
Attorneys at Law
39 South LaSalle Street, Suite 1105
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on May 30, 2008, I will file the attached **VERIFIED COUNTER PLAINTIFF'S COUNTER COMPLAINT** with the Clerk of the Circuit Court of Cook County, at the Daley Center, at 50 W. Washington, Chicago, Illinois.



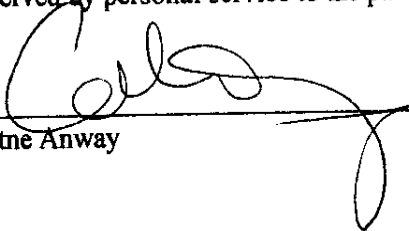
Cortne Anway

RECEIVED
MAY 30 2008
CLERK OF CIRCUIT COURT
COOK COUNTY
CHANCERY DIVISION

UNOFFICIAL COPY

CERTIFICATE OF SERVICE

The undersigned affirms and states that she served by personal service to the parties listed above on May 30, 2008.



Cortne Anway

Pinnacle Law P.C.
David W. Trailor
Attorney No. 44624
4119 N. Kenmore, Suite 311
Chicago, IL 60613

Property of Cook County Clerk's Office

RECEIVED
MAY 30 2008
CLERK OF COURT
JUDICIAL BRANCH
COURT HOUSE
CHICAGO, ILLINOIS

UNOFFICIAL COPY

VERIFICATION OF COUNTER COMPLAINT

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this **COUNTER PLAINTIFF'S COUNTER COMPLAINT** stated above in case no. **07 CH 37726** are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Counter Plaintiff: Carlos Meza

By: 

Subscribed and Sworn to before me this 30 day of May, 2008.



Notary Public

Pinnacle Law P.C.
David W. Trailov
Attorney No. 44624
4119 N. Kenmore, Suite 311
Chicago, IL 60613
773-230-4417



CLERK'S OFFICE
COUNTY OF COOK
JUL 10 2008 10:00 AM

Property of Cook County Clerk's Office

UNOFFICIAL COPY



Exhibit "A"

Property of Cook County Clerk's Office

UNOFFICIAL COPY

AGREEMENT

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Agreement.

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 - Unit 114 at 850, Units 122, 124 at 860, Units 150, 156, 158, 250 at 870, and Units 170, 172, and 178, at 880,
 for the total purchase price of \$900,000.00, title to be taken in the name of David, or nominee.
2. Purchase price will be funded by David advancing \$185,000.00, and borrowing \$720,000.00, from the Charter National Bank that will be secured by a blanket first mortgage on all of the units, amortized over a period of 30 years with a 5-year balloon.
3. Carlos will manage the property without fee and shall be responsible to collect rents and disburse all expenditures on the property, including but not limited to, first mortgage payments, insurance, condo assessments, utilities, rehabilitation, maintenance and repair of the units, plus the payment to David of ten percent (10%) per annum on the \$185,000.00 or such other amounts from time to time invested by David. Payments to David shall be made on the 15th day of each month commencing with the month following the closing.
4. Carlos shall be responsible for any deficiency of income to meet the expenditures as they fall due and shall advance funds to cure the deficiencies if and when required. Out of proceeds of the sale of the units, Carlos shall be reimbursed for any funds he advanced as set forth in paragraph 6.
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 - a) to Charter Bank to pay the mortgage due on such unit;
 - b) to David, \$18,500 plus the interest due thereon;
 - c) to Carlos, reimbursement of all advances made on and for the units, plus interest at the rate of 10% per annum on such advanced amounts;
 - d) the balance shall be shared equally between the parties.

UNOFFICIAL COPY

7. Title to the units shall be taken in David's name or a nominee designated by David. David's responsibility to the venture shall be to take title, sign or guarantee as the case may be, the first mortgage at Charter, advance \$185,000.00 toward the purchase of the units, and to determine when, how and at what price to sell the condo units. To the extent that it will not violate terms of the Charter mortgage, Carlos may be added to title.

8. Carlos does hereby agree to indemnify David for the repayment of the loan from Charter, including all charges and interest thereof, and the repayment to David of the \$185,000.00 advanced by David, plus interest thereon at 10% per annum, until paid.

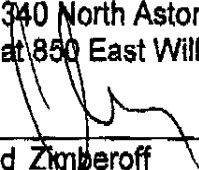
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Unit 1 E 6123 North Seely, Chicago, IL. 60659 PIN 14 06 121 011 1076, and
Unit 171, 880 East Old Willow Rd., Prospect Heights, IL. 60070, PIN 03 24 202
025 1071


to secure said guarantee, which mortgages shall be in place until repayment of the Charter loan and repayment to David as aforesaid is made. Gladys' liability shall not exceed the value of the condos given as part of the guarantee. The parties believe the total value of both condos to be \$225,000.00.

10. Attorneys fees shall be awarded the prevailing party should either party be required to bring an action to enforce or interpret this Agreement.

11. All notices to the parties shall be made to David by e-mail at Zgulls@aol.com, and at 1340 North Astor Street; #2706; Chicago, IL 60610; to Carlos at mezanetsys@aol.com and at 850 East Willow Falls Road; #115; Prospect Heights, IL60070.



David Zimmeroff

 1-21-04

Carlos Meza

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A large, bold, black handwritten mark, possibly a signature or a scribble, consisting of several thick, overlapping strokes. The mark is positioned in the upper center of the page.

Exhibio "B"

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MORTGAGE



Doc#: 0405003049
 Eugene "Gene" Moore Fee: \$34.00
 Cook County Recorder of Deeds
 Date: 02/19/2004 11:22 AM Pg: 1 of 6

625 03-1095 + 03-1283

THIS AGREEMENT, made this 26th day of January 2004, between Gladys McPherson whose address is 850 E. Old Willow Road; #115; Prospect Heights, IL 60070, herein referred to as "Mortgagor"; and David M. Zimberoff whose address is 1340 N. Astor Street; #2706; Chicago, IL 60610, herein referred to as "Mortgagee,"
 Witnesseth:

THAT WHEREAS Mortgagor is a guarantor in the amount of \$185,000.00 under a certain Guaranty Agreement dated the 26th day of January, 2004 in which Mortgagor guarantees certain performance to Mortgagee;

NOW, THEREFORE, Mortgagor to secure the terms of said guaranty in accordance with the terms and provisions of said Agreement, and the performance of the covenants and agreements herein contained, by the Mortgagor to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, does by these presents CONVEYS AND WARRANTS unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of her estate, right, title and interest therein, situate, lying and being in the City of Chicago, County of Cook, Illinois, known as 6123 N. Seely Unit 1-E, Chicago, IL 60659; and being in the City of Prospect Heights, County of Cook, Illinois, known as 880 E. Old Willow Road, Unit 171, Prospect Heights, IL 60070, legally described on Exhibit "A" attached hereto and made a part hereof

which, with the property herein after described, is referred to herein as the "premise,"
 Permanent Real Estate Index Number(s): 14-06-121-011-1076 and 03-24-202-025-1071

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration, and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or

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articles hereafter placed in the premises by Mortgagor or her successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the Mortgagor does hereby expressly release and waive. Furthermore,

1. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or destroyed; (b) keep said premises in good condition and repair, without waste, and free from mechanic's lien or other liens or claims for lien not expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, (d) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (e) refrain from making material alterations in said premises except as required by law or municipal ordinances.
2. Mortgagor shall (a) pay before any penalty attaches all general taxes, and pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, (b) keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning or windstorm under policies providing for payment by the insurance companies of moneys sufficient to pay the cost of replacing or repairing the same in companies satisfactory to Mortgagee, under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy; and to deliver all policies to Mortgagee. All moneys and expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall become additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at 10% per annum.
3. Inaction of Mortgagee shall not be considered a waiver of any right accruing to Mortgagee on account of any of the provisions of this Mortgage.
4. Should Mortgagor default in any of the terms and provisions set forth in the Guaranty Agreement, Mortgagee shall have the right to foreclose the lien hereof and in said suit, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses, which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, guarantee policies and similar data and assurances with respect to title which may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature described in this paragraph shall become additional indebtedness secured hereby and immediately due and payable, with interest at 10% per annum, when paid or incurred by Mortgagee in connection with (a) any proceeding including probate and bankruptcy proceedings, to which either of them shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for foreclosure whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually

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commenced.

5. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items mentioned in the preceding paragraph; Second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Guaranty Agreement, with interest thereon as herein provided; Third, to Mortgagee the amount then due under the Guaranty Agreement; Fourth, any excess to Mortgagor, her heirs, legal representatives or assigns, as their rights may appear.

6. Upon, or at any time after the filing of a suit to foreclose this mortgage, the court in which such suit is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and the Mortgagee hereunder may be appointed as such receiver. Such receiver shall have the power to collect rents, issues and profits of said premises during the pendency of such foreclosure action and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management, and operation of the premises during the whole of said period.

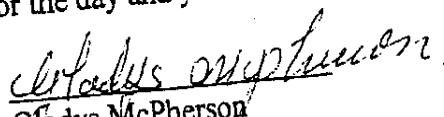
7. Mortgagee shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

8. The undersigned waives the right of redemption and the right to reinstate this mortgage.

9. Mortgagee shall release this mortgage and lien thereof by proper instrument when the terms of the Guaranty Agreement is satisfied.

10. This mortgage and all provisions herein shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word Mortgagor when used herein shall include all such persons and all persons liable for the payment of the guarantee whether or not such persons have executed the Guaranty Agreement or this mortgage. The word Mortgagee when used herein shall include the successors and assigns of the Mortgagee named herein and the holder of the Guaranty Agreement secured hereby.

Witness the hand and seal of Mortgagor the day and year first above written.


Gladys McPherson

State of Illinois)
County of Cook) ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Gladys McPherson is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person, and acknowledged that she signed, sealed and delivered the said

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instrument as her free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 7 day of January 2004.

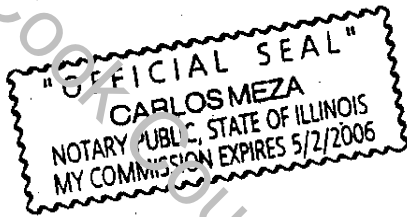
Commission expires 5/2/2006

Carlos Meza

NOTARY PUBLIC

This instrument was prepared by David Zimmeroff; 1340 No. Astor Street; #2706; Chicago, Il 60610.

Mail to David Zimmeroff; 1340 No. Astor Street; #2706; Chicago, IL 60610.



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