

# UNOFFICIAL COPY



87068784  
13/15  
MORTGAGE

Doc#: 0819055090 Fee: \$56.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 07/08/2008 02:02 PM Pg: 1 of 11

This instrument was prepared by & mail to:  
Ronald G. Pestine & Associates  
555 Skokie Boulevard, Suite 595  
Northbrook, IL 60062  
Atty Number 22954

THIS MORTGAGE is made this 2<sup>ND</sup> day of **April, 2008**, between the Mortgagor(s) **Ioan Gavrilati of 1116 E. Plate Drive, Palatine, Illinois 60074**, (herein collectively referred to as "Mortgagor," "Mortgagors," or "Borrower"), and the Mortgagee, **James L. Hammersmith of 5500 Keeney Street, Morton Grove, Illinois 60053** (herein referred to as "Lender" or "Mortgagee").

WHEREAS, Mortgagors are indebted to Mortgagee in the principal sum of **Seven hundred thousand and 00/xx dollars (\$700,000.00)** which indebtedness is evidenced by Mortgagor's Promissory Note bearing even date herewith (herein individually referred to as "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on **July 1, 2008**, the terms and conditions of said Note of which are incorporated herein by reference:

NOW, THEREFORE, the Mortgagors, to secure the payment of said principal sum of money and said interest in accordance with the terms, provisions, and limitations of the Note, Guaranty if applicable, and to secure payment and performance of all other benefits conferred upon Mortgagee under said Note, Guaranty, and all other documents benefiting Mortgagee being a part of this transaction, and the performance of the covenants and agreements herein contained by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt of which is hereby acknowledged, do by these presents CONVEY and WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described real estate and all of their estate, right, title, and interest therein, situate, lying, and being in the County of **Cook** and State of **Illinois**, to wit:

(See attached legal description)

Commonly known as **337 Meadow Lane, Lake Zurich, Illinois 60047**  
PIN# **14-20-210-011**

which, with the property hereinafter described, is referred to herein as the "premises,"

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances now and hereafter 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 tenant security deposits, utility deposits and insurance

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premium rebates to which Mortgagor may be entitled to or which Mortgagor may be holding; and all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves and ranges, refrigerators, water heaters, certain fixtures, partitions, and all fixtures and apparatus, equipment, and articles now or hereafter therein or thereon, including those used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration or ventilation (whether single units or centrally controlled), including, without restricting the foregoing, all fixtures, apparatus, equipment and articles which relate to the use, occupancy and enjoyment of the premises, it being understood that the enumeration of any specific article of property shall in no way exclude or be held to exclude any items of property not specifically mentioned. All of the land, estate and property hereinabove described, both real, personal and mixed, whether affixed or annexed or not hereby conveyed and mortgaged are intended to be as a unit and are hereby understood, agreed and declared (to the maximum extent permitted by law) to form a part and parcel of said real estate and to be appropriated to the use of the real estate and shall be for the purposes of this Mortgage deemed to be real estate and conveyed and mortgaged hereby, 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, which said rights and benefits the Mortgagors do hereby expressly release and waive.

MORTGAGORS HEREBY, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHTS OF REDEMPTION.

## THE MORTGAGORS COVENANT AS FOLLOWS:

REPAIRS, TAXES. Mortgagors shall (1) promptly repair, restore, or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien to the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance without Mortgagee's prior written consent; (7) suffer or permit a change in the general nature of the occupancy of the premises without Mortgagee's prior written consent; (8) observe and comply with all conditions and requirements (if any) necessary to preserve and extend all rights, licenses, permits (including without limitation, zoning variances and any non-conforming uses and structures), privileges, franchises and concessions applicable to the premises or contracted for in connection with any present or future use of the premises; and (9) pay each item of indebtedness secured by this Mortgage when due according to the terms hereof and of the Note and/or Guaranty secured by this Mortgage. As used in this paragraph and elsewhere in this Mortgage, the term "indebtedness" means and includes the unpaid principal sum evidenced by the Note and/or Guaranty, together with all interest, additional interest, prepayment penalties or surcharges thereof, if any, and all other sums at any time secured by this Mortgage.

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Mortgagors shall pay before any penalty attaches all general taxes and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder, Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.

Mortgagee, upon written demand, may require that Mortgagors periodically deposit sufficient sums for payment of insurance, taxes, and penalties. Deposits shall not bear interest.

In the event of the enactment after this date of any law deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagors, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property or the manner of collection of taxes so as to affect this Mortgage or the debt secured hereby or the holder thereof, then and in any such event the Mortgagors, upon demand by the Mortgagee, shall pay such taxes or assessments or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagors to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagors, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the note hereby secured, the Mortgagors covenant and agree to pay such tax in the manner required by any such law. The Mortgagors further covenant to hold harmless and agree to indemnify the Mortgagee, and the Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note secured hereby.

**MORTGAGORS TO KEEP MORTGAGES CURRENT.** Mortgagors shall keep all other mortgages and trust deeds on the premises and obligations due thereunder current and timely paid, and thereby reduce the outstanding principal relating thereto at the originally agreed rate. Mortgagors shall not cause any amount due on any mortgage or trust deed, including those that may be subordinate to this Mortgage, to increase by way of non-payment, additional advances, or otherwise.

**CONDEMNATION.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the premises, 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 taking of the premises, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the premises, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair

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market value of the premises immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the premises are abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Premises or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments or change the amount of such installments.

PREPAYMENT. At such time as the Mortgagors are not in default, either under the terms of the note secured hereby or under the terms of this Mortgage, the Mortgagors shall have such privilege of making prepayments on the principal of said note (in addition to the required payments) together with the prepayment penalties, if any, as may be provided for in said note.

INSURANCE. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning, and windstorm under policies providing for payment by the insurance companies of monies sufficient to pay the cost of replacing or repairing the same and in sufficient amounts to pay in full the indebtedness secured hereby, all by companies satisfactory to the Mortgagee, under insurance policies payable in case of loss or damage to Mortgagee, such rights to be evidenced by the standard mortgagee clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

ADVANCES ADDED TO PRINCIPAL. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagors in any form and manner deemed expedient and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise, or settle any tax lien or other prior lien of title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises, or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the lower of the rate of interest set forth in the Note or the highest rate permitted by law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagors.

The Mortgagee making any payment hereby authorized relating to taxes or assessments may do so according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement, or estimate or into the validity of any tax, assess-

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ments, sale, forfeiture, tax lien, or title or claim thereof.

ACCELERATION, DEFAULT, FORECLOSURE. Mortgagors shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagors, all unpaid indebtedness secured by this Mortgage shall, notwithstanding anything in the Note or in this Mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note or (b) when default shall occur in the performance of any other agreement of the Mortgagors herein contained or part of this transaction.

When the indebtedness hereby secured shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, 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, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Mortgagee 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 in the paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the lower of the interest rate set forth in the Note or at the highest rate now permitted by law, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the Mortgagee 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 the foreclosure hereof after accrual of such right to foreclose, whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

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 as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as provided; third, all principal and interest remaining unpaid on the Note; fourth, any remainder to Mortgagors and their heirs, legal representatives, or assigns, as their rights may appear.

Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver (or appoint the mortgagee in possession) of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors 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 note, and the Mortgagee may be appointed as such receiver. Such receiver or mortgagee in possession

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shall have power to collect the rents, issues, and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagors, except for the intervention of such receiver or mortgagee in possession, 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. The court from time to time may authorize the receiver or mortgagee in possession to apply the net income in his hands in payment, in whole or in part, of (1) the indebtedness secured hereby or by the decree foreclosing this Mortgage, or any tax special assessment, or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; or (2) the deficiency in case of a sale and deficiency.

BORROWER NOT RELEASED. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to Borrower or to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest.

FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

REMEDIES CUMULATIVE. Each right, power and remedy conferred upon the Mortgagee by this Mortgage and by all other documents evidencing or securing the indebtedness and conferred by law and in equity are distinct from and cumulative to any other right or remedy herein or therein set forth or otherwise so existing and may be exercised concurrently, independently, or successively.

SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY. The covenants and agreements herein contained shall bind and the rights hereunder shall inure to the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several.

MISCELLANEOUS. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured.

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

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If the payment of said indebtedness or any part thereof should be extended or varied or if any part of the security should be released, all persons now or at any time hereafter liable therefor or interested in said premises shall be held to assent and hereby do consent to such extension, variation, or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation, or release.

Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the preparation and execution of such release.

Mortgagors hereby authorize Mortgagee to add, amend, or correct the legal description(s) or terms to this Mortgage to conform with the understanding of the parties.

Mortgagor covenants and warrants to Mortgagee, that Mortgagor has good and indefeasible title to the premises in fee simple, free and clear from all liens, charges and encumbrances whatsoever, except general real estate taxes not yet due and payable, and utility easements of record.

ASSIGNMENT OF RENTS. Mortgagor hereby assigns to Mortgagee all the rents, issues, and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or any agreement for the use or occupancy of any part of the premises hereinafter described, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed by the Mortgagee under the power herein granted, it being the intention to hereby establish an absolute transfer and assignment of all such leases and agreements and all the avails thereunder unto the Mortgagee, and the Mortgagor hereby irrevocably appoints the Mortgagee as its true and lawful agent to collect all of said avails, rents, issues, and profits arising or accruing at any time hereafter and all now due or that may hereafter become due under each an every one of the leases or agreements, written or verbal, existing or to hereafter exist for said premises, and to use such measures, legal or equitable, as in the Mortgagee's discretion may be deemed proper or necessary to enforce the payment or the security of such avails, rents, issues, and profits, or to secure and maintain possession of said premises or any portion thereof, and to fill any and all vacancies, and to rent, lease, or let any portion of said premises to any party or parties at his discretion, hereby granting full power and authority to exercise each and every right, privilege, and power herein granted at any and all times hereafter without notice to the Mortgagor, and further with power to use and apply said avails, issues, and profits to the payment of any indebtedness or liability of the Mortgagor to the Mortgagee due or to become due or that may hereafter be contracted, and also to the payment of all expenses and the care and management of said premises, including taxes and assessments, and the interest or encumbrances, if any, which may in said agent's judgment be deemed proper and advisable, hereby ratifying all that said agent may do by virtue hereof.

RESTRICTIONS ON TRANSFER. It shall be an immediate default hereunder if, without the prior written consent of the Lender, with respect to the premises which are mortgaged as part of this transaction:

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- (a) Borrower shall create, effect, consent to, or enter into any contract or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance, alienation, or sale of the premises or any part thereof, or interest therein;
- (b) Any beneficiary of Borrower, if Borrower is a trustee, shall create, effect, consent to, or enter into any contract or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance, alienation, or sale of the premises or of such beneficiary' beneficial interest in the Borrower;
- (c) Any shareholder of Borrower, if Borrower is a corporation, shall create, effect, consent to, or enter into any contract, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance, alienation, or sale of the premises or of any such shareholder's shares in the Borrower;
- (d) Any partner or joint venturer, if Borrower is a partnership or joint venture, shall create, effect, consent to, or enter into any contract or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance, alienation, or sale of the premises or of any part of the partnership or joint venture interest, as the case may be, of such partner or joint venturer in Borrower, in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation is effected directly, indirectly, voluntarily, or involuntarily, by operation of law or otherwise; or
- (e) Any member or manager of limited liability company, if Borrower is limited liability company, shall create, effect, consent to, or enter into any contract or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance, alienation, or sale of the premises or of any part of the limited liability company or membership interest thereof, as the case may be, of such member of limited liability company in Borrower, in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation is effected directly, indirectly, voluntarily, or involuntarily, by operation of law or otherwise;

In the event of default, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. The provisions of this Paragraph shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the premises or such beneficial interest in, share of stock of, or partnership or joint venture interest in Borrower.



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NOTICES. Any notices required to be given by Lender hereunder concerning this Mortgage or any other document pertaining to this transaction shall be given by U.S. Mail, certified return receipt requested, postage prepaid (and shall be deemed given on the date mailed) to:

**James L. Hammersmith**  
**5500 Keeney Street**  
**Morton Grove, Illinois 60053**

**cc: Ronald G. Pestine**  
**555 Skokie Blvd., Ste. 595**  
**Northbrook, Illinois 60062**

CAPTIONS; CONSTRUCTION OF TERMS; APPLICABLE LAW; SEVERABILITY OF PROVISIONS. The captions in this Mortgage are for reference and convenience only and do not affect, modify, limit, or construe the contents of the paragraphs herein.

The provisions of this instrument are to be construed according to, and are to be governed by, the laws of the state of execution of this Mortgage and, to the extent of foreclosure procedures, governed by the law of the state in which the premises are located.

Should any term or part of this Mortgage, by reason of law, declaration of court, or any other reason, be declared invalid, such invalidity shall not affect the validity of any remaining portion, and such remaining portion shall remain in force and effect as if this Mortgage had been executed with the invalid portion eliminated.

This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors. The word "Mortgagor", "Mortgagors," or "Borrower," when used herein, shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this Mortgage. The word "Mortgagee," when used herein, shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the Note secured thereby.

THIS MORTGAGE consists of **10** pages. The covenants, conditions, and provisions appearing on all pages are a part hereof and shall be binding on the Mortgagors.



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RONALD G. PESTINE & ASSOCIATES An Agency For  
Fidelity National Title Insurance Company  
1941 ROHLWING ROAD ROLLING MEADOWS, IL. 60008

**ALTA Commitment  
Schedule A1**

**File No.:** RTC68784

**Property Address:** 337 MEADOW LANE,  
LAKE ZURICH IL 60047

**Legal Description:**

LOT 11 IN MEADOW LANE ADDITION TO LAKE ZURICH HIGHLANDS, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED JUNE 25, 1954, AS DOCUMENT 828467, IN BOOK 1256 OF RECORDS, PAGE 225, IN LAKE COUNTY, ILLINOIS.

**Permanent Index No.:** 14-20-230-011,

Property of Cook County Clerk's Office