



Doc#: 0821846008 Fee: \$46.25  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 08/05/2008 10:43 AM Pg: 1 of 5

This Instrument Was Prepared By:  
WILLIAM E. SHOCKETT, ESQ.  
25 West Flagler Street  
Miami, Florida 33130

## AGREEMENT NOT TO ENCUMBER

THIS AGREEMENT made and entered into this 25 day of June, 2008, by and between **CHICAGO PROPERTY PARTNERS, LLC**, a Florida Limited Liability Company hereinafter referred to as "Borrower" with an address of 1600 N.W. 163rd Street, Miami, Florida 33169, and CITY NATIONAL BANK OF FLORIDA, a national banking association, hereinafter referred to as "Lender" with an address of 25 West Flagler Street, Miami, Florida 33130, which terms shall include and mean their successors and assigns wherever the context so requires or admits;

### RECITALS

A. Borrower is presently the owner of the fee simple title to the following described real property, hereinafter referred to as the "Property", situate, lying and being in Cook County, Illinois.

SEE EXHIBIT A ATTACHED HERETO

B. Lender has simultaneously herewith closed on a loan to Borrower, in the sum of FOUR MILLION FOUR HUNDRED THOUSAND AND 001/00 (\$4,400,000.00) Dollars, as evidenced by Borrower's Increase Renewal Promissory Note of even date, hereinafter referred to as "Note", in favor of Lender.

C. In order to induce Lender to make the aforesaid loan, the Borrower has agreed to execute and deliver this Agreement so as, among other things, to insure that Borrower's equity in the Property is not modified or encumbered without Lender's consent until the indebtedness evidenced by the Note has been fully repaid and satisfied.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees, for the benefit of Lender, its successor and/or assigns, and intending to be legally bound hereby, as follows:

1. The foregoing Recitals are true and correct as of the date hereof and Borrower warrants to Lender the truth thereof.
2. Borrower warrants and represents unto the Lender that there is no existing lien or other encumbrance or debt which affects the Property.

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3. Borrower agrees that, without Lender's prior written consent to be given or withheld in Lender's sole and unfettered discretion, Borrower covenants and agrees not to encumber the Property for debt.

4. As further security for Borrower's obligations under the Note, Borrower hereby assigns, pledges and hypothecates to Lender, and grants Lender a security interest in, Borrower's right, title, interest and estate in and to all proceeds of any mortgages or other encumbrances, or sales, of all or any portion of the Property now or hereafter received or to be received by Borrower or any related party pursuant to any applicable agreements, including, without limitation all new mortgage proceeds, refinancing proceeds, sale proceeds, condemnation awards, insurance proceeds and similar amounts; provided, however, that this Agreement does not grant or create or constitute a security interest in, or mortgage or encumbrance on, the Property, but only a security interest in and lien against the aforementioned collateral. Upon any sale, transfer, assignment, conveyance, or any portion of the Property, Borrower shall pay to Lender a sum equal to the lesser of the amount of proceeds realized by Borrower or any related entity therefrom or the then outstanding amount of the Note indebtedness, but Lender's receipt of such proceeds shall not constitute its approval of the applicable transaction. Borrower shall promptly notify Lender of the expected occurrence or the occurrence of any event which would entitle Lender to payment hereunder or which would otherwise result in a violation of Borrower's agreements contained herein. It is understood that Borrower will cooperate with Lender in better securing its obligations under this paragraph, from time to time, including, but not limited to, the execution and filing of all necessary financing statements.

5. Any attempted sale or encumbrance of all or any portion of the Property in violation of the terms of this Agreement shall be deemed null and void for all purposes unless Lender's prior written consent is obtained thereto, which consent may be granted or withheld in Lender's sole and unfettered discretion.

6. This Agreement shall be binding upon the parties hereto and any successor or assign, as to all or any portion of the Property, and Borrower hereto shall expressly advise any such successor or assign of the existence and provisions of this Agreement. Any person taking any interest in all or any portion of the Property from and after the date hereof shall be deemed to be on notice of and to be bound by Lender's rights hereunder, with this Agreement remaining in full force and effect until such time as all of the Note indebtedness has been fully repaid and satisfied, following which Lender shall, within a reasonable time, execute and deliver to Borrower a statement in recordable form setting forth that fact.

7. Borrower agrees to pay any expenses incurred by Lender in the interpretation or enforcement of this Agreement, including costs and attorneys' fees (including those incurred for appellate or administrative or bankruptcy proceedings), in the event that Lender shall be obligated to resort to the courts or require the services of an attorney to interpret or enforce this Agreement.

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8. Borrower and Lender hereby waive trial by jury and submit to the jurisdiction of the State and Federal Courts in the State of Illinois for purposes of any action arising from or growing out of this Agreement and further agree that the venue of any such action may be instituted in Cook County, Illinois. Nothing contained in this Agreement, however, shall be deemed to constitute or to imply the existence of, any agreement by Lender to bring any such action only in said courts or to restrict in any way of Lender's remedies or rights to enforce the terms of this Agreement as, when and where Lender shall deem appropriate, in its sole discretion.

9. This Agreement shall inure to the benefit of Lender and its successors and assigns, and Lender may assign this Agreement to any assignee or transferee of the Note without prior notice. Time shall be of the essence with respect to all of the provisions of this Agreement. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Illinois.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered  
in the presence of:

Anita Eskine  
Name:  
Julia P. Cabrera  
Name:

**CHICAGO PROPERTY PARTNERS, LLC, a  
Florida Limited Liability Company**

By: [Signature]  
Steven R. Becker, Manager

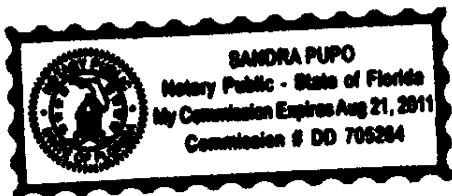
By: [Signature]  
Wayne E. Chaplin, Manager

STATE OF Florida  
COUNTY OF Dade

The foregoing instrument was acknowledged before me this 20 day of June, 2008, by STEVEN R. BECKER as Manager of **CHICAGO PROPERTY PARTNERS, LLC, a Florida Limited Liability Company**. He is personally known to me or has produced Personally known as identification and did (did not) take an oath.

[Signature]  
Name:  
Notary Public, State of Florida

My commission expires:



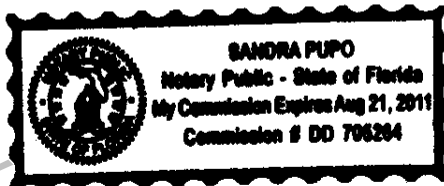
# UNOFFICIAL COPY

STATE OF Florida  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 20 day of June, 2008, by WAYNE E. CHAPLIN as Manager of **CHICAGO PROPERTY PARTNERS, LLC**, a **Florida Limited Liability Company**. He is personally known to me or has produced Personally know as identification and did (did not) take an oath.

\_\_\_\_\_  
Name:  
Notary Public, State of Florida

My commission expires:



g/co:AgreeNotToEncumb/ChicagoProp.doc

MAIL TO: William E. Shockett, Esq.  
25 West Flagler Street  
Suite 711  
Miami, FL 33130

SEND SUBSEQUENT  
TAX BILLS TO: The address presently on file

# UNOFFICIAL COPY

EXHIBIT A

LOTS 48 TO 53 INCLUSIVE IN BLOCK 2 IN HULL'S SUBDIVISION OF BLOCKS 1 AND 2 IN DAVIS' ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office