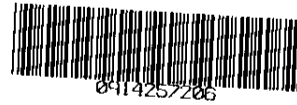


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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 0914257206 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 05/22/2009 09:09 AM Pg: 1 of 11

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN: 09-09-401-074-0000**

Address:

Street: 9600 Golf Rd.

Street line 2: 09-09-401-069,70,71-0000

City: Des Plaines

State: IL

ZIP Code: 60016

Lender: MIDWEST BANK AND TRUST COMPANY

Borrower: JOSEPH ANDRIACCHI & TR#92-6419

Loan / Mortgage Amount: \$480,000.00

This property is located within Cook County and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: AC9505CC-37C2-4B89-ABBD-9138F70AE30B

Execution date: 12/10/2008

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THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Holland & Knight LLC
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603
Francis L. Keldermans, Esq.

This space reserved for Recorder's use only

MODIFICATION OF LOAN DOCUMENTS

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of December 10, 2008, by and among **Joseph M. Andriacchi** ("Joseph Andriacchi") and **Midwest Bank and Trust Company, not personally but as Trustee** ("Trustee") under Trust Agreement dated December 23, 1992 and known as Trust No. 92-6419 ("Trust") (Joseph Andriacchi and the Trust are referred to collectively as, "Borrowers") and **MIDWEST BANK AND TRUST COMPANY**, an Illinois banking association, its successors and assigns ("Lender").

RECITALS:

A. On or about September 2, 2004, Lender made a loan ("Loan") to Joseph Andriacchi and Silvana Andriacchi ("Initial Borrowers") in the principal amount of Four Hundred Eighty Thousand and no/100 Dollars (\$480,000.00), pursuant to the terms and conditions contained in that Business Loan Agreement ("Initial Loan Agreement") dated by and between Initial Borrowers and Lender.

B. The Loan is evidenced by a Promissory Note dated September 2, 2004 in the principal amount of the Loan made payable by Initial Borrowers to the order of Lender ("Initial Note").

C. On or about March 2, 2007, Initial Borrowers executed that Amendment to Business Loan Agreement (the "3-2-07 Amendment"). Concurrently therewith and as a condition precedent thereto, Initial Borrowers executed and delivered to Lender that Promissory Note (the "3-2-07 Note") made payable to Lender in the principal amount of Four Hundred Eighty Thousand and no/100 Dollars (\$480,000.00). To secure the Loan, Initial Borrowers delivered to Lender that Mortgage (the "Mortgage") dated March 2, 2007 executed by the Trust in favor of Lender and recorded on March 30, 2007 with the Cook County Recorder of Deeds as Document No. 0708902009 and (ii) certain other loan documents.

D. On or about March 2, 2008, Initial Borrowers and Lender entered into that

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Business Loan Agreement ("3-2-08 Loan Agreement"). Concurrently therewith and as a condition precedent thereto, Initial Borrowers executed and delivered to Lender that Promissory Note ("3-2-08 Note") dated March 2, 2008 made payable by Initial Borrowers to the order of Lender in the principal amount of Four Hundred Eighty Thousand and no/100 Dollars (\$480,000.00).

E. On or about November 9, 2008, Silvana Andriacchi died.

F. Joseph Andriacchi desires to modify the Loan Documents in order to, among other things, (i) extend the Maturity Date of the Note, (ii) modify the Interest Rate, (iii) add the Trust as a co-Borrower to replace Silvana Andriacchi, and (iv) cross-collateralize and cross-default this Loan with certain other loans to Joseph Andriacchi.

G. In consideration of Lender's agreeing to modify the Loan Documents and enter into this Agreement, Borrowers agree to execute and deliver to Lender (i) that Amended and Restated Promissory Note ("Amended Note") of even date herewith made by Joseph Andriacchi and the Trust as co-Borrowers payable to the order of Lender in the principal amount of the Loan, and (ii) that Collateral Assignment of Beneficial Interest ("CABI") of even date herewith by and among Joseph Andriacchi, as beneficiary, the Trustee and Lender, and (iii) such other documents, agreements, and certificates as Lender requests.

H. The Initial Loan Agreement, the 3-2-07 Amendment, the 3-2-08 Loan Agreement and this Agreement, together with any prior or intervening documents executed in connection with the Loan and as such documents may be amended, are referred to collectively as the "Loan Agreement". The Initial Note, the 3-2-07 Note, the 3-2-08 Note and the Amended Note, together with any prior or intervening notes executed in connection with and evidencing the Loan, are referred to collectively as the "Note". The Note, the Mortgage, the CABI and the other documents evidencing, securing and guarantying the Loan in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents".

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Maturity Date.** The Maturity Date of the Note is extended to December 14, 2009. Any reference in the Note, the Loan Agreement, the Mortgage or any other Loan Document to the Maturity Date shall mean December 14, 2009.

2. **Interest Rate.** The Interest Rate is hereby modified as set forth, and defined in, the Amended Note.

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3. **Principal and Interest.** Principal and interest shall be due and payable as set forth in the Note. As of the date hereof, the outstanding principal balance of the Loan is 479,814.05.

4. **Co-Borrower.** The Trustee hereby agrees to replace Silvana Andriacchi (deceased) as co-borrower of the Loan and accepts all liabilities and obligations under the Loan Documents as such co-borrower.

5. **Cross Default and Cross Collateralization.** An Event of Default under the any of the Loan Documents with respect to any indebtedness owing by Joseph Andriacchi to Lender thereunder ("Other Loans") shall be an Event of Default with respect to this Loan, and upon the occurrence of an Event of Default, Lender shall have the right to exercise any and all remedies granted to Lender under this Agreement in accordance with the terms and conditions hereof. The collateral securing the Loan shall secure the Other Loans. The collateral securing the Other Loans shall also secure the Loan.

6. **Assignment of Leases and Rents.** In order to further secure payment of the Indebtedness and the observance, performance and discharge of the Obligations, Borrowers hereby absolutely and irrevocably assigns and transfers to Lender, all of Borrowers' right, title and interest in and to the leases and the rents, subject only to the Permitted Exceptions. Borrowers hereby appoint Lender its true and lawful attorney-in-fact, with the right, at Lender's option at any time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in Borrowers' or Lender's name, for all rents. Notwithstanding the foregoing assignment of leases and rents, so long as no Event of Default has occurred which remains uncured, Borrowers shall have a license to collect rents or other income from the Premises (such license to be deemed revoked upon the occurrence of an Event of Default) provided that the existence or exercise of such right of Borrowers shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Borrower, and any subsequent assignment by Borrower shall be subject to the rights of the Lender hereunder. This Assignment shall not be deemed or construed to constitute Lender as a mortgagee in possession nor obligate Lender to take any action or to incur expenses or perform or discharge any obligation, duty or liability. Exercise of any rights under this Article 6 and the application of the rents to the Indebtedness or the Obligations shall not cure or waive any Event of Default.

7. **Representations and Warranties of Borrowers.** Each Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Loan Agreement, the Mortgage and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default (as defined in the Loan Agreement) under the Loan Agreement, the Note, the Mortgage, the CABI or the other Loan Documents and Borrowers do not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Loan Agreement, the Note, the Mortgage, the CABI or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the

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execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrowers enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrowers or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, Borrowers have no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) The Trust is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of the Trust. This Agreement has been duly executed and delivered on behalf of Borrowers.

8. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue a title insurance policy (the "Title Policy"), together with such endorsements as Lender requires, as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

9. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

10. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrowers or any guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrowers, any guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrowers, any guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound

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by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrowers or any guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrowers, any guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrowers, any guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Loan Agreement", the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Loan Agreement, the Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

(h) Time is of the essence of each of Borrowers' obligations under this Agreement.

11. **Trustee Exculpation.** This Agreement is executed by the Trustee, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing in this Agreement or the Note shall be construed as creating any liability on such Trustee personally to perform any express or implied covenant, condition or obligation under this Agreement or the Note, all such liability, if any, being expressly waived by every person or entity now or hereafter claiming any right, title or interest under this Agreement or the Note. Notwithstanding the foregoing, the Lender shall not be precluded from: (a) recovering any condemnation awards or insurance proceeds attributable to the Property; (b) recovering any tenant security deposits, advance or pre-paid rents; or (c) enforcing the personal liability of Joseph Andriacchi as co-maker of the Note, of the payment of the Note and performance of the Loan Documents.

[Signature Page Follows]

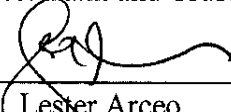
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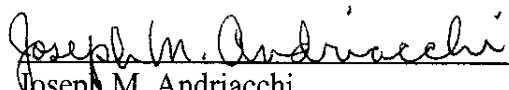
IN WITNESS WHEREOF, the parties hereto have executed this Modification of Loan Documents dated as of the day and year first above written.

LENDER:

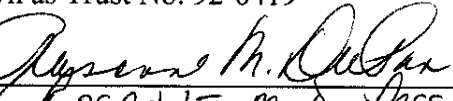
BORROWER:

Midwest Bank and Trust Company

By: 
Lester Arceo
Assistant Vice President


Joseph M. Andriacchi

Midwest Bank and Trust Company, not personally but as Trustee under Trust Agreement dated December 23, 1992 and known as Trust No. 92-6419

By: 
Name: ROSANNE M. DEPASS
Title: Trust Officer

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Lester Arceo, Assistant Vice President of Midwest Bank and Trust Company, 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 he signed and delivered said instrument as such Assistant Vice President for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4th day of March, 2009.

Shawnese Carson

Notary Public

My Commission Expires: Nov. 15, 2011



STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

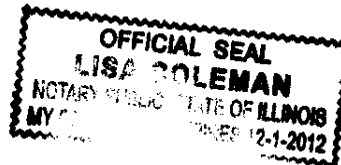
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Joseph M. Andriacchi is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4 day of March, 2009.

Lisa Coleman

Notary Public

My Commission Expires: 12-1-2012



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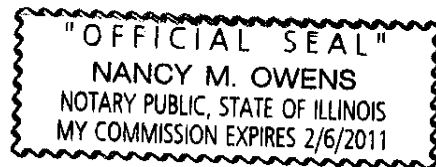
STATE OF ILLINOIS)
) ss
 COUNTY OF COOK)

I the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Nancy M. Owens, Trust Officer of **Midwest Bank and Trust Company**, as Trustee under Trust Agreement dated December 23, 1992 and known as Trust Number 92-6419, 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 he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 6th day of March, 2009.

Nancy Owens
 Notary Public

My Commission Expires: 2-6-2011



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EXHIBIT A

THE PROPERTY

9600 Golf Road, Des Plaines, Illinois

PARCEL 1:

THAT PART OF LOT 1 IN LAKE MARY ANNE SUBDIVISION OF PART OF SECTIONS 9 AND 10, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF LOT 1 AFORESAID 562.53 FEET NORTH WESTERLY OF THE MOST WESTERLY SOUTHWEST CORNER THEREOF THENCE SOUTH 03 DEGREES 18 MINUTES 14 SECONDS EAST ALONG SAID WEST LINE 170.0 FEET; THENCE SOUTH 74 DEGREES 06 MINUTES 53 SECONDS EAST 54.18 FEET TO A LINE DRAWN SOUTH 55 DEGREES 44 MINUTES 40 SECONDS WEST THROUGH A POINT ON THE WEST LINE OF LOT 1 AFORESAID 75.53 FEET NORTH OF THE MOST WESTERLY SOUTHWEST CORNER THEREOF; THENCE NORTH 55 DEGREES 44 MINUTES 40 SECONDS EAST 65.0 FEET; THENCE NORTH 73 DEGREES 39 MINUTES 07 SECONDS WEST 226.68 FEET; THENCE NORTH 48 SECONDS 18 MINUTES 41 SECONDS WEST 250.0 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 09-09-401-074-0000

PARCEL 2:

THAT PART OF LOT 1 IN LAKE MARY ANNE SUBDIVISION OF PART OF SECTIONS 9 AND 10, TOWNSHIP 41 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE MOST NORTHERLY WEST LINE OF LOT 1 AFORESAID, 137.50 FEET SOUTH 06 DEGREES 19 MINUTES 15 SECONDS WEST OF THE MOST NORTHERLY NORTHWEST CORNER THEREOF; THENCE SOUTH 06 DEGREES 19 MINUTES 15 SECONDS WEST ALONG SAID WEST LINE 177.48 FEET TO A BEND THEREIN, BEING 632.53 FEET NORTHWESTERLY OF THE MOST WESTERLY SOUTHWEST CORNER THEREOF; THENCE NORTH 69 DEGREES 15 MINUTES 57 SECONDS EAST 258.17 FEET TO A LINE DRAWN SOUTH 69 DEGREES 01 MINUTES 27 SECONDS EAST THROUGH THE POINT OF BEGINNING; THENCE NORTH 69 DEGREES 03 MINUTES, 27 SECONDS WEST 237.70 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 09-09-401-070 - 0000

PARCEL 3:

THAT PART OF LOT 1 IN LAKE MARY ANNE SUBDIVISION OF PART OF SECTIONS 9 AND 10, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON

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THE MOST NORTHERLY WEST LINE OF LOT 1 AFORESAID, 137.50 FEET; THENCE SOUTH 06 DEGREES 19 MINUTES 15 SECONDS EAST OF THE MOST NORTHERLY NORTHWEST CORNER OF SAID LOT; THENCE NORTH 06 DEGREES 19 MINUTES 15 SECONDS EAST ALONG SAID WEST LINE 137.50 FEET TO THE MOST NORTHERLY NORTHWEST CORNER THEREOF; THENCE SOUTH 88 DEGREES 39 MINUTES 10 SECONDS EAST ALONG A NORTHERLY LINE OF SAID LOT 60.04 FEET; THENCE SOUTH 33 DEGREES 41 MINUTES 44 SECONDS EAST 264.68 FEET TO A LINE DRAWN SOUTH 69 DEGREES 03 MINUTES 27 SECONDS EAST THROUGH THE POINT OF BEGINNING; THENCE NORTH 69 DEGREES 03 SECONDS 27 MINUTES WEST 237.70 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 09-09-401-071-0000

PARCEL 4:

THAT PART OF LOT 1 IN LAKE MARY ANNE SUBDIVISION OF PART OF SECTIONS 9 AND 10, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT A CORNER POINT ON THE MOST NORTHERLY NORTH LINE OF LOT 1 AFORESAID, 667.50 FEET WEST OF THE MOST NORTHERLY NORTHEAST CORNER OF LOT 1 (THAT PART OF SAID NORTH LINE OF LOT 1 LYING EAST OF THE WEST LINE OF SECTION 10, HAVING A BEARING OF NORTH 89 DEGREES 58 MINUTES 00 SECONDS WEST FOR THE PURPOSES OF THIS DESCRIPTION); THENCE NORTH 88 DEGREES 39 MINUTES 10 SECONDS WEST ALONG ANOTHER NORTHERLY LINE OF LOT 1 AFORESAID, A DISTANCE OF 354.92 FEET; THENCE SOUTH 10 DEGREES 34 MINUTES 57 SECONDS EAST 287.50 FEET; THENCE NORTH 66 DEGREES 21 MINUTES 33 SECONDS WEST 154.24 FEET TO THE POINT OF BEGINNING; THENCE NORTH 83 DEGREES 40 MINUTES 45 SECONDS WEST 70.00 FEET; THENCE NORTH 33 DEGREES 41 MINUTES 44 SECONDS WEST 264.68 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 60.04 FEET EAST OF THE MOST NORTHERLY NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 88 DEGREES 39 MINUTES 10 SECONDS EAST ALONG SAID NORTH LINE 152.50 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 09-09-401-069-0000

PARCEL 5:

EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCELS 1-4 SET FORTH AND DEFINED IN THE DECLARATION OF EASEMENTS RECORDED AS DOCUMENT NO. 20016197 AND AS AMENDED BY INSTRUMENT RECORDED JANUARY 21, 1969 AS DOCUMENT NO. 20734489 FOR INGRESS AND EGRESS, ALL IN COOK COUNTY, ILLINOIS.

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