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Doc#: 0915929008 Fee: \$46.00 Eugene "Gene" Moore RHSP Fee:\$10.00 Cook County Recorder of Deeds Date: 06/08/2009 10:25 AM Pg: 1 of 6

Michael C. Kim & Associates 19 S. LaSalle Street Suite 303 Chicago, Illinois 60603

LIEN

STATE OF ILLINOIS ) ) SS COUNTY OF COOK )

IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS

BOARD OF MANAGERS OF STREETERVILLE CENTER CONDOMINIUM ASSOCIATION, an Illinois Not-for-Profit Corporation.

Claimant,

v.

PAUL CAPALBO

Defendant,

) ) ) Claim for the lien in the amount of \$1,119.12 ) plus additional unpaid assessments which ) hereafter become due and owing and ) attorneys fees and costs. ) ) ) ) )

CLAIMANT, BOARD OF MANAGERS OF STREETERVILLE CENTER CONDOMINIUM ASSOCIATION ("Association"), an Illinois not-for-profit corporation, hereby files a Claim for Lien against certain property owned by the Defendant, PAUL CAPALBO, of Cook County, Illinois and states as follows:

As of the date hereof, the said Defendant owned or claimed an interest in the following described property located in the Association, to-wit:

See Legal Description & Pin Attached Hereto As Exhibit A.

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The said property is subject to a Declaration of Condominium Ownership and of Easements, Restrictions, Covenants, and By-Laws for the Association recorded as Document No. 26017897 in the Office of the Recorder of Deeds of Cook County, Illinois, on the 2<sup>nd</sup> day of October 1981. Article X of said Declaration and Section 9(g) (1) of the Illinois Condominium Property Act provide for the creation of a lien for the Defendants' unpaid assessments and fines or other lawful charges, together with interest, late charges, reasonable attorney's fees incurred enforcing the covenants of the condominium instruments, rules and regulations of the Board of Directors, or any applicable statute or ordinance, and costs of collection, and other lawful charges.

The balance of the Defendants' unpaid assessments and fines or other lawful charges, together with interest, late charges, reasonable attorney's fees incurred enforcing the covenants of the condominium instruments, rules and regulations of the Board of Directors, or any applicable statute or ordinance, and costs of collection, and other lawful charges, after allowing all credits, for the period of October 1, 2005 through and including May 29, 2009 is in the amount of \$1,119.12 for which, the Claimant claims a lien on said property and improvements as of the aforesaid date, plus the amount of any subsequent common expenses, unpaid fines, interest, late charges, reasonable attorney's fees, and costs of collection, and other lawful charges which become due and owing and remain unpaid subsequent to the aforesaid date.

BOARD OF MANAGERS OF STREETERVILLE CENTER CONDOMINIUM ASSOCIATION

By: Suzette P. Johnson  
Account Manager

DATE: 5/29, 2009

Suzette Johnson, being first duly sworn, on oath deposes and says, that she is the Account Manager for Streeterville Center Condominium Association, an Illinois not-for-profit Corporation, the above named Claimant, that she has authority to make this affidavit on behalf of said Claimant, that she has read the foregoing Claim for Lien, that she knows the contents thereof, and that all the statements therein contained are true.

Suzette P. Johnson  
Account Manager

SUBSCRIBED AND SWORN to  
before me this 29<sup>th</sup> day  
of MAY 2009.

Marsha Williams  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION:

UNIT 2301 IN THE STREETERVILLE CENTER CONDOMINIUM, AS SELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: ALL OF THE PROPERTY AND SPACE LYING ABOVE AND EXTENDING UPWARD FROM A HORIZONTAL PLANE HAVING AN ELEVATION OF 119.30 FEET ABOVE CHICAGO CITY DATUM (AND WHICH IS ALSO THE LOWER SURFACE OF THE NINITH FLOOR, IN THE 26 STORY BUILDING SITUATED ON THE PARCEL OF LAND HEREINAFTER DESCRIBED) AND LYING WITHIN THE BOUNDARIES PROJECTED VERTICALLY UPWARD OF A PARCEL OF LAND COMPRISED OF LOTS 20 TO 24 AND LOT 25 (EXCEPT THAT PART OF LOT 25 LYING WEST OF THE CENTER OF THE PARTY WALL OF THE BUILDING NOW STANDING THE DIVIDING LINE BETWEEN LOTS 25 AND 26), TOGETHER WITH THE PROPERTY AND SPACELYING BELOW SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 119.30 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE A HRIZONTAL PLANE HAVING AN ELEVATION OF 118.13 FEET ABOVE CHICAGO CITY DATUM( AND WHICH PLANE COINCIDES WITH THE LOWEST SURFACE OF THE ROOF SLAB OF THE 8 STORY BUILDING SITUATED ON DAID PARCEL OF LAND) AND LYING WITHIN THE BOUNDARIES PROJECTED VERTICALLY UPWARD OF THE SOUTH 17.96 FEET OF AFORESAID PARCEL OF LAND, ALL IN THE SUBDIFISION OF THE WEST 394 FEEF PF B;PCL 32, (EXCEPT THE EAST 14 FEET OF THE NORTH 80 FEET THEREOF), IN KINZIE'S ADDITION TO CHICAGO IN SECITON 10, TOWNSHIP 29 NORTH RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 26017897, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS.

Common Address  
233 E. Erie Street, Unit 2301  
Chicago, IL 60611

Permanent Tax Number (P. I. N.): 17-10-203-027-1141

on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Any proceeds available from the withdrawal of any Limited Common Elements, will be distributed in accordance with the interest of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

### 8.03 *Eminent Domain.*

In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal from the provisions of the Act of such portion so taken may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to eminent domain, the percentage of interest in the Common Elements appurtenant to such Unit or portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Proceeds available from the withdrawal of any Limited Common Element will be distributed in accordance with the interests of those entitled to their use. Upon the withdrawal of any Unit or portion thereof under this Section 8.03 only, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

8.04 *Repair, Restoration or Reconstruction.* As used in this Article, "repair, restoration, or reconstruction" means restoring the damaged Building or portion thereof (excluding additions, alterations, improvements or betterments to a Unit) to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and Common Elements having the same vertical and horizontal boundaries as before. Any repair, restoration or reconstruction shall be in accordance with law, this Declaration, and the Operating Declaration.

## ARTICLE IX

### SALE OF THE PROPERTY

At a meeting duly called for such purpose, the Unit Owners, by affirmative vote of at least seventy-five percent (75%) of the total vote, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale was approved the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit entitled to notice under Section 13.02 of this Declaration. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale; provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by an appraisal, less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select a qualified appraiser, experienced in the appraisal of condominium units in metropolitan Chicago, Illinois, and the two (2) so selected, shall select a third appraiser, experienced in the appraisal of condominium units in metropolitan Chicago, Illinois, and the fair market value, as determined by a majority of the three (3) so selected, shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal. The cost of the appraisal shall be divided equally between such Unit Owner and the Board, and the Board's share of said cost shall be a Common Expense.

## ARTICLE X

### REMEDIES

10.01 *Violations.* Upon the occurrence of any one or more of the following events, the Board shall have the rights and remedies set forth in Section 10.02 of this Declaration:

(a) Failure by a Unit owner to pay when due any sums required to be paid by such Unit Owner pursuant to Section 4.06(b), Section 4.07, Section 4.10(b), Article VI, or other provisions of this Declaration, for thirty (30) days after written notice of such non-payment shall have been given such Unit Owner; provided that such defaulting Unit Owner shall

not be entitled to written notice and opportunity to cure such failure if such Unit Owner has been given three or more notices pursuant to this Section 10.01(a) during the twelve-month period immediately preceding such failure.

(b) Violation or breach by a Unit Owner (or any occupant of his Unit) of any provision, covenant or restriction of the Act, Declaration, the By-laws, Operating Declaration, contractual obligation to the Board or Association undertaken by such Unit Owner, or rules and regulations promulgated by the Board, and continuation of such violation or breach for thirty (30) days after written notice thereof shall have been given such Unit Owner; provided that such defaulting Unit Owner shall not be entitled to written notice and opportunity to correct such violation or breach if such Unit Owner has been given three or more notices pursuant to this Section 10.01(b) during the twelve-month period immediately preceding such violation or breach.

**10.02 Remedies.** Upon the occurrence of any one or more of the events described in Section 10.01, the Board shall have the following rights and remedies:

(a) The Board shall have the right to immediate possession of the defaulting Unit Owner's Unit after service by the Board on such Unit Owner, in the manner set forth in Section 13.03 hereof, of a notice to quit and deliver up possession which right may be enforced by an action for possession under "An Act in Regard to Forcible Entry and Detainer," approved February 16, 1874, as amended.

(b) For a violation or breach described in Section 10.01(b) hereof, the Board shall have the right: (i) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove or do whatever else may be necessary to correct at the expense of the defaulting Unit Owner, any such violation or breach or the cause of such violation or breach, and the Trustee, or Developer, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or (ii) to enjoin, abate, or remedy by a proceeding at law or in equity the continuance of any such violation or breach.

(c) Upon the occurrence of one of the events described in Section 10.01(a) hereof, including without limitation, failure by a Unit Owner to pay his percentage share of Common Expenses or user charges, the Board shall have a lien on the interest of the defaulting Unit Owner in his Unit Ownership in the amount of any sums due from such Unit Owner; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage on the interest of such Unit Owner. Except as hereinafter provided, the lien provided for in this Section 10.02(c) shall not be affected by any transfer of title to the Unit Ownership. Where title to the Unit Ownership is transferred pursuant to a decree of foreclosure or by deed or assignment in lieu of foreclosure, such transfer of title shall, to the extent permitted by law, extinguish the lien described in this Section 10.02(c) for any sums which became due prior to (i) the date of the transfer of title or (ii) the date on which the transferee comes into possession of the Unit, whichever occurs first. However, the transferee of a Unit Ownership shall be liable for his share of any sums with respect to which a lien against his Unit Ownership has been extinguished pursuant to the preceding sentence which are reallocated among the Unit Owners pursuant to a subsequently adopted annual revised or special assessment, and non-payment thereof by such transferee shall result in a lien against the transferee's Unit Ownership as provided in this Section 10.02(c).

(d) The Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the right of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use, or control his Unit and thereupon an action may be filed by the Board against the defaulting Unit Owner for a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him and ordering that all the right, title and interest of said defaulting Unit Owner in the Property shall be sold at a judicial sale, upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest in the Unit Ownership at such judicial sale. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments or other sums due hereunder or any liens, shall be paid to the defaulting Unit Owner. Upon the confirmation of such sale, the purchaser at such sale shall be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession.

(e) In addition to or in conjunction with the remedies set forth above, the Board or its agents shall have the right to bring an action at law or in equity against the Unit Owner or occupant of the Unit as permitted by law including, without limitation, an action (i) to foreclose a lien against the Unit Ownership, (ii) for damages, injunctive relief, or specific performance, (iii) for judgment or for the payment of money and the collection thereof, (iv) for any combination of the remedies set forth in this Article or (v) for any other relief which the Board may deem necessary or appropriate. Any and all rights and remedies provided for in the Act, this Declaration, the By-laws, Operating Declaration, contractual obligation to the Board or Association undertaken by such Unit Owner, or rules and regulations promulgated by the Board may be exercised at any time and from time to time cumulatively or otherwise by the Board in its discretion. The failure

of the Board to exercise any such rights or remedies to enforce any provisions of this Declaration, the By-laws or rules and regulations of the Board shall in no event be deemed a waiver of the right to do so thereafter.

(f) Upon the occurrence of one of the events described in Section 10.01(a), the Board may accelerate the maturity of the remainder of installments of Common Expenses due from such defaulting Unit Owner for the balance of the assessment year.

(g) All expenses incurred by the Board in connection with any actions, proceedings or self-help in connection with the exercise of its rights and remedies under this Article, including without limitation, court costs, reasonable attorneys' fees and all other fees and expenses, and all damages, together with interest thereon at the highest legal contract rate of interest then permitted in Illinois until paid, shall be charged to and assessed against the defaulting Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all his personal property in his Unit or located elsewhere on the Property.

10.03 *Enforcement by Unit Owners.* Any aggrieved Unit Owner may enforce the provisions of this Declaration, the By-laws, or any rules and regulations promulgated by the Board by an action at law or in equity against the defaulting Unit Owner (or occupant of his Unit) upon a violation or breach described in Section 10.01(b) hereof against any person or persons either to restrain such violation or breach or to recover damages.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS RESPECTING MORTGAGEES

The following provisions are intended for the benefit of each holder of a first mortgage upon a Unit, and to the extent if at all, that any other provisions of this Declaration conflicts with the following provisions, the following provisions shall control:

(a) The Association shall furnish each first mortgagee of a Unit a written notice of any default by the Owner of such Unit in the performance of such Unit Owner's obligations under this Declaration which is not cured within thirty (30) days. Any first mortgagee of a Unit who comes into possession of the said Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Unit which become due prior to (i) the date of the transfer of title or (ii) the date on which the holder comes into possession of the Unit, whichever occurs first (except for any sums which are reallocated among the Unit Owners pursuant to the last sentence of Paragraph 10.02(c) hereof).

(b) Upon request in writing, each first mortgage of a Unit shall have the right:

(i) to examine the books and records of the Association during normal business hours;

(ii) to receive any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Unit Owners at the end of each of its respective fiscal years;

(iii) to receive notices of all meetings of the Association and to designate a representative to attend all such meetings; and

(iv) to receive notice of any decision by the Unit Owners to make a material amendment to the Declaration, By-Laws contained herein or Articles of Incorporation.

(c) No provision of this Declaration or Articles of Incorporation of the Association or any similar instrument pertaining to the Property or the Units therein shall be deemed to give a Unit Owner or any other party priority over any rights of the first mortgagees of Units pursuant to their mortgages in the case of distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units, and/or the Common Elements, or any portion thereof or interest therein. In such event, the holder of any first mortgage on a Unit shall be entitled, upon specific written request, to timely written notice of any such loss.

(d) Unless the first mortgagees of all of the individual Units which have become a part of the Property have given their prior written approval, neither the Association nor the Unit Owners shall be entitled to:

(i) by act or omission seek to abandon or terminate the condominium regime, except for abandonment provided by the Act in case of substantial loss to the Units and/or the Common Elements;

(ii) change the pro rata interest or obligations of any Unit Owner for (1) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (2) determining the pro rata share of ownership of each Unit Owner in the Common Elements, except as provided in Sections 8.02 and 8.03 hereof;

(iii) partition or subdivide any Unit;