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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Doc#: 1007834011 Fee: \$66.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/19/2010 09:18 AM Pg: 1 of 16

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 25-28-322-022-0000

Address:

Street: 12635 S. Halsted

Street line 2:

City: Chicago

State: IL

ZIP Code: 60628

Lender: Lakewest Equity, Inc.

Borrower: Lake Halsted Properties, LLC

Loan / Mortgage Amount: \$490,000.00

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: D2812AFF-D1E0-4DFD-AC55-DF23A15DFE9C

Execution date: 03/05/2010

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This instrument prepared by and
after recording return to:

Wayne S. Gilmartin, Esq.
55 East Monroe Street
Suite 2910
Chicago, Illinois 60603
(312) 346-7399

MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

This MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (this "**Mortgage**") is made effective as of the 23rd day of October, 2009, by Lake Halsted Properties LLC, an Illinois limited liability company ("**Borrower**"), whose address is 55 East Monroe Street, Suite 2910, Chicago, Illinois 60603 for the benefit Lakewest Equity, Inc, as agent for the payees (collectively, "**Lender**") under the Note (defined below).

RECITALS

A. Lender has agreed to make a loan (the "**Loan**") to Borrower in connection with Borrower's improvement of the real estate described on Exhibit A attached hereto (the "**Land**"). The Loan is evidenced by that certain Promissory Note of even date herewith in the original principal amount of Four Hundred Ninety Thousand and 00/100 Dollars (\$490,000.00) (which note, together with all notes issued in substitution or exchange therefor and all amendments thereto, is hereinafter referred to as the "**Note**"), providing for payments as set forth in the Note, with the balance thereof, due and payable on December 5, 2019 (said date, any later date to which the maturity date may be extended in accordance with the Note, or any earlier date on which the entire unpaid principal amount shall be paid or required to be paid in full, whether by prepayment, acceleration or otherwise is hereinafter called the "**Maturity Date**"). The terms and provisions of the Note are hereby incorporated by reference in this Mortgage.

B. Lender wishes to secure: (i) the payment of the Note, together with all interest, premiums, and other amounts, if any, due in accordance with the terms of the Note, as well as the payment of any additional indebtedness accruing to Lender on account of any future payments, advances or expenditures made by Lender pursuant to the Note; (ii) the performance of each and every covenant, condition, and agreement contained in the Note and this Mortgage; and (iii) the payment of any and all other debts, claims, obligations, demands, monies, liabilities and indebtedness of any kind or nature now or hereafter owing, arising, due or payable from Borrower to Lender in connection with the Loan. All payment obligations of Borrower to Lender under the Loan, the Note and this Mortgage are hereinafter sometimes collectively referred to as the "**Indebtedness**," and all other obligations of Borrower to Lender under the Loan, the Note and this Mortgage are hereinafter sometimes collectively referred to as the "**Obligations**".

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NOW, THEREFORE, TO SECURE the repayment of the Indebtedness and the performance of the Obligations, Borrower has executed this Mortgage and does hereby mortgage, convey, assign, warrant, transfer, pledge and grant to Lender a security interest in the following described property and all proceeds thereof (which property is hereinafter sometimes collectively referred to as the "**Property**"):

- A. The Land;
- B. All of the following (collectively, the "**Improvements**"): all buildings, improvements and fixtures now or in the future located or to be constructed on the Land; to the extent not owned by tenants of the Property, all machinery, appliances, equipment, furniture, fixtures and all other personal property of every kind or nature located in or on, or attached to, or used or to be used in connection with the Land, buildings, improvements or fixtures; all building materials and goods procured for use or in connection with the foregoing; and all additions, substitutions and replacements to any of the foregoing;
- C. To the extent assignable, all plans, specifications, architectural renderings, drawings, soil test reports, other reports of examination or analysis of the Land or the Improvements;
- D. All easements, rights-of-way, water courses, mineral rights, water rights, air rights and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto ("**Appurtenances**");
- E. All agreements affecting the use, enjoyment or occupancy of the Land and/or Improvements now or hereafter entered into (the "**Leases**") and all rents, prepayments, security deposits, termination payments, royalties, profits, issues and revenues from the Land and/or Improvements from time to time accruing under the Leases (the "**Rents**"), reserving to Borrower, however, so long as no Event of Default (hereinafter defined) has occurred hereunder, the right to receive and apply the Rents in accordance with the terms and conditions of Section 8 of this Mortgage;
- F. All claims, demands, judgments, insurance proceeds, refunds, reserves, deposits, rights of action, awards of damages, compensation, settlements and other rights to the payment of money hereafter made resulting from or relating to (i) the taking of the Land or the Improvements or any part thereof under the power of eminent domain, (ii) any damage (whether caused by such taking, by casualty or otherwise) to the Land, Improvements or Appurtenances or any part thereof, or (iii) the ownership or operation of the Property;
- G. To the extent assignable, all management contracts, permits, certificates, licenses, approvals, contracts, purchase and sale agreements, purchase options, entitlements, development rights and authorizations, however characterized, issued or in any way furnished for the acquisition, construction, development, operation and use of the Land, Improvements and/or Leases, including building permits, environmental certificates, licenses, certificates of operation, warranties and guaranties;

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H. All accounts, contract rights, general intangibles, chattel paper, documents, instruments, inventory, goods, equipment and all books and records relating to the foregoing;

I. Any monies on deposit with or for the benefit of Lender, including deposits for the payment of real estate taxes and any cash collateral account;

J. All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements, Appurtenances or any other property of the types described in the preceding granting clauses; and

K. Any and all after-acquired right, title or interest of Borrower in and to any property of the types described in the preceding granting clauses.

TO HAVE AND TO HOLD the Property and all parts thereof together with the rents, issues, profits and proceeds thereof, unto Lender to its own proper use, benefit, and advantage forever, subject, however, to the terms, covenants, and conditions herein.

Borrower covenants and agrees with Lender as follows:

1. **Payment of Indebtedness; Performance of Obligations.** Borrower shall promptly pay when due the Indebtedness and shall promptly perform all Obligations.

2. **Taxes and Other Obligations.** Borrower shall pay, when due, and before any interest, collection fees or penalties shall accrue, all taxes, assessments, fines, impositions and other charges and obligations, which may become a lien on or charge against the Property (collectively, "**Charges**"). Borrower shall have the right to contest, in good faith by appropriate proceedings, the amount or validity of any such Charges, so long as: (a) Borrower has given prior written notice to Lender of Borrower's intent to so contest or object to any such Charges; (b) such contest stays the enforcement or collection of the Charges or any lien created; and (c) Borrower has obtained an endorsement, in form and substance satisfactory to Lender, to the loan policy of title insurance issued to Lender insuring over any such lien, or Borrower has deposited with Lender a bond or other security satisfactory to Lender in the amount of 150% of the amount of such Charges.

Should Borrower fail to make any of such payments, Lender may, at its option and at the expense of Borrower, pay the amounts due for the account of Borrower. Upon the request of Lender, Borrower shall immediately furnish to Lender copies of all notices of amounts due and receipts evidencing payment. Borrower shall promptly notify Lender of any lien on all or any part of the Property and shall promptly discharge any unpermitted lien or encumbrance.

3. **[Intentionally Omitted].**

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4. Insurance and Condemnation.

(a) Insurance.

(i) Borrower shall keep the Improvements insured, and shall maintain general liability coverage and such other coverages reasonably requested by Lender, by carrier(s), in amounts and in form at all times reasonably satisfactory to Lender, which carrier(s), amounts and form shall not be changed without the prior written consent of Lender, such consent not to be unreasonably withheld.

(ii) In case of loss or damage by fire or other casualty, Borrower shall give immediate written notice thereof to the insurance carrier(s) and to Lender. Lender is authorized and empowered, and Borrower hereby irrevocably appoints Lender as its attorney-in-fact (such appointment is coupled with an interest), at its option, to make or file proofs of loss or damage and to settle and adjust any claim under insurance policies which insure against such risks, or to direct Borrower, in writing, to agree with the insurance carrier(s) on the amount to be paid in regard to such loss.

(iii) Provided no Event of Default then exists and Borrower certifies as to same, the net insurance proceeds (after deduction of Lender's reasonable costs and expenses, if any, in collecting the same) shall be made available for the restoration or repair of the Property if, in Lender's reasonable judgment: (a) restoration or repair and the continued operation of the Property is economically feasible; (b) the value of Lender's security is not reduced; (c) Senior Lender (hereinafter defined) agrees to make such net insurance proceeds available; (d) the loss does not occur in the three (3) month period preceding the stated Maturity Date; and (e) Borrower deposits with Lender or Senior Lender from time-to-time an amount, in cash, which Lender, in its sole discretion, determines is necessary, in addition to the net insurance proceeds to pay in full the cost of the restoration or repair (Borrower's deposit shall be disbursed prior to any disbursement of insurance proceeds held by Lender). Any excess proceeds remaining after completion of such repair shall be distributed first to Borrower to the extent Borrower has deposited funds with Lender or Senior Lender for such repair with the balance applied against the Indebtedness (unless applied against the Senior Loan (hereinafter defined)). Lender may establish such conditions as it deems reasonably necessary to assure the work is fully completed in a good and workmanlike manner free of all liens or claims by reason thereof, and in compliance with all applicable laws, rules and regulations. At Lender's option, the net insurance proceeds shall be disbursed pursuant to a construction escrow acceptable to Lender. If an Event of Default then exists, or any of the conditions set forth in clauses (a) through (e) of this Section 4(a)(iii) have not been met or satisfied, the net insurance proceeds shall be applied to the Indebtedness in such order and manner as Lender may elect, whether or not due and payable, with any excess paid to Borrower.

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(b) **Condemnation.**

(i) Borrower shall within three (3) business days of its receipt of notice thereof, notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall, after consultation with and subject to Lender's approval, appear in and prosecute any such action or proceeding. Upon Borrower's failure to act in accordance with Lender's prior approval, Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower (such appointment as attorney-in-fact is coupled with an interest), to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender and in accordance with the provisions of Section 4(b)(ii) below. Lender is authorized (but is under no obligation) to collect any such proceeds.

(ii) Lender may, in its sole discretion, elect to (y) apply the net proceeds of any condemnation award (after deduction of Lender's reasonable costs and expenses, if any, in collecting the same) in reduction of the Indebtedness in such order and manner as Lender may elect, whether due or not or (z) make the proceeds available to Borrower for the restoration or repair of the Property. If the net proceeds of the condemnation award are made available to Borrower for restoration or repair, the net proceeds of the condemnation award shall be disbursed upon satisfaction of and in accordance with the terms and conditions set forth in Section 4(a)(iii) above. Lender is authorized (but is under no obligation) to collect any such proceeds.

5. **Preservation and Maintenance of Property.** Borrower shall: (a) not commit waste or permit impairment or deterioration of the Property; (b) not abandon the Property; (c) keep the Property in good repair and restore or repair promptly, in a good and workmanlike manner, all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, upon any damage or loss thereto; (d) comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property; (e) provide for management of the Property by a property manager reasonably satisfactory to Lender pursuant to a contract in form and substance reasonably satisfactory to Lender; and (f) give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security granted by this Mortgage or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any Improvement on the Land except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

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6. **Protection of Lender's Security.** If (a) Borrower fails to pay the Indebtedness or to perform the Obligations, (b) any action or proceeding is commenced which affects or could affect the Property or Lender's interest therein, including any loss, damage, cost, expense or liability incurred by Lender with respect to (i) any environmental matters relating to the Property or (ii) the preparation of the commencement or defense of any action or proceeding or any threatened action or proceeding affecting the Note, this Mortgage or the Property, then Lender, at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect the Property or Lender's interest therein, including entry upon the Property to take such actions Lender determines appropriate to preserve, protect or restore the Property. Any amounts disbursed by Lender pursuant to this Section 6 (including attorneys' fees, costs and expenses), together with interest thereon at the "**Default Interest Rate**" (defined in the Note) from the date of disbursement, shall become additional Indebtedness of Borrower secured by the lien of this Mortgage and shall be due and payable on demand. Nothing contained in this Section 6 shall require Lender to incur any expense or take any action hereunder.

7. **Actions.** Borrower shall warrant title and appear in and defend any claim or any action or other proceeding purporting to affect title or other interests relating to any part of the Property, the security of this Mortgage or the rights of Lender, and give Lender prompt written notice of any such claim, action or proceeding. Lender may, at the expense of Borrower, appear in and defend any such claim, action or proceeding and any claim, action or other proceeding asserted or brought against Lender in connection with or relating to any part of the Property or this Mortgage.

8. **Leases; Assignment of Rents**

Borrower shall not, without Lender's prior written consent, execute, modify, amend, surrender or terminate any Lease.

Borrower absolutely and unconditionally assigns and transfers to Lender, all of Borrower's right, title and interest in and to the Rents; provided, however, so long as there shall not have occurred an Event of Default, Borrower shall have the right to collect all Rents, and shall hold the same, in trust, to be applied first to the payment of all impositions, levies, taxes, assessments and other charges upon the Property, second to maintenance of insurance policies upon the Property required hereby, third to the expenses of Property operations, including maintenance and repairs required hereby, fourth to the payment of that portion of the Indebtedness then due and payable, and fifth, the balance, if any, to or as directed by Borrower. If an Event of Default has occurred, Borrower's right to collect and secure the Rents shall cease and Lender shall have the sole right, with or without taking possession of the Property to collect all Rents. Borrower has executed and delivered to Lender an Assignment of Leases and Rents of even date herewith, and, to the extent the provisions of this Section 8 are inconsistent with the provisions of said Assignment of Leases and Rents, the provisions of said Assignment of Leases and Rents shall control.

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9. **Statements by Borrower.** Borrower shall within ten (10) days after Lender's request, furnish Lender with a written statement, duly acknowledged, setting forth the sums, according to Borrower's books and records, secured by this Mortgage and any right of set-off, counterclaim or other defense which exists against such sums and the Obligations.

10. **Transfers of the Property or Beneficial Interest in Borrower; Assumption.** Borrower shall not (a) create any new ownership interest in Borrower, or (b) transfer (i) all or any part of the Property, or any interest therein, or (ii) any ownership interest in Borrower (including any interest in the profits, losses or cash distributions in any way relating to the Property or Borrower). Intestate transfers or transfers by devise shall not constitute a transfer for the purposes of the foregoing provisions. Notwithstanding the foregoing, Borrower may enter into contracts for the sale of the Lots (hereinafter defined) and may sell the Lots provided Borrower has satisfied all of the requirements of Section 28 pertaining to Lender's release of its lien thereon.

11. **No Additional Liens, Encumbrances or Indebtedness.** Borrower covenants not to execute any mortgage, security agreement, assignment of leases and rents or other agreement granting a lien (except the liens granted to Lender hereunder and to Senior Lender under the Senior Loan Documents (hereinafter defined)) against or encumbrance on the Property or take or fail to take any other action which would result in a lien against the Property or the interest of Borrower in the Property without the prior written consent of Lender; provided, however, Borrower may in good faith, by appropriate proceeding, contest the validity or amount of any asserted lien and, pending such contest, Borrower shall not be deemed to be in default hereunder if Borrower shall first obtain an endorsement, in form and substance satisfactory to Lender to the loan policy of title insurance issued to Lender insuring over such lien, or, if no such loan policy shall have been issued, then Borrower shall deposit with Lender a bond or other security satisfactory to Lender in the amount of 150% of the amount of such lien to assure payment of the same as and when due.

12. **Borrower and Lien Not Released.** Without affecting the liability of Borrower or any other person liable for the payment of the Indebtedness and without affecting the lien or charge of this Mortgage as security for the payment of the Indebtedness, Lender may, from time to time and without notice to any junior lien holder or holder of any right or other interest in and to the Property: (a) release any person so liable; (b) waive or modify any provision of this Mortgage or grant other indulgences; (c) release all or any part of the Property; (d) take additional security for any obligation herein mentioned; (e) subordinate the lien or charge of this Mortgage; (f) consent to the granting of any easement; or (g) consent to any map or plan of the Property.

13. **Uniform Commercial Code Security Agreement.**

(a) This Mortgage shall constitute a security agreement pursuant to the Uniform Commercial Code (the "UCC") for any portion of the Property which, under applicable law, may be subject to a security interest pursuant to the UCC (such portion of the Property is hereinafter called the "**Personal Property**") and Borrower hereby grants to Lender a security interest in the Personal Property. Lender shall have all of the rights and remedies of

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a secured party under the UCC as well as all other rights and remedies available at law or in equity.

(b) Borrower agrees to execute and deliver to Lender any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Mortgage in such form as Lender may require to perfect a security interest with respect to the Personal Property. Borrower hereby authorizes and empowers Lender and irrevocably appoints Lender its agent and attorney-in-fact to execute and file, on Borrower's behalf, all financing statements and refilings and continuations thereof as Lender deems necessary or advisable to create, preserve and protect such lien. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements as Lender may reasonably require.

(c) Borrower shall not, without the prior written consent of Lender, sell, assign, transfer, encumber, remove or permit to be removed from the Property any of the Personal Property. So long as no Event of Default exists, Borrower may sell or otherwise dispose of the Personal Property when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Property, but only upon replacing the same with other Personal Property at least equal in value and utility to the disposed Personal Property. Any replacement or substituted Personal Property shall be subject to the security interest granted herein.

(d) To the extent permitted by law, Borrower and Lender agree that with respect to all items of Personal Property which are or will become fixtures on the Land, this Mortgage, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of the UCC.

14. **Events of Default; Acceleration of Indebtedness.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Mortgage:

(a) failure of Borrower to pay, within five (5) days of the due date, any of the Indebtedness, including any payment due under the Note; or

(b) failure of Borrower to strictly comply with Sections 4(a)(i) (insurance), 8 (Leases), 10 (prohibition on transfers), and 11 (no additional liens) of this Mortgage; or

(c) failure of Borrower, within thirty (30) days after written notice and demand, to satisfy each and every Obligation not set forth in the subsections above; provided, however, if such Obligation cannot by its nature be cured within thirty (30) days, and if Borrower commences to cure such failure promptly after written notice thereof and thereafter diligently pursues the curing thereof (and then in all events cures such failure within sixty (60) days after the original notice thereof), Borrower shall not be in default hereunder during such period of diligent curing; or

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- (d) the occurrence of a default under any other loan document; or
- (e) the occurrence of a default under any junior mortgage or deed of trust or any other security agreement encumbering all or any portion of the Property.

Upon the occurrence of an Event of Default, at the option of Lender, the Indebtedness shall become immediately due and payable without notice to Borrower and Lender shall be entitled to all of the rights and remedies provided in the Note, this Mortgage or at law or in equity. Each remedy provided in the Note and this Mortgage is distinct and cumulative to all other rights or remedies under the Note and this Mortgage or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

15. **Entry; Foreclosure.** Upon the occurrence of an Event of Default, Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Property, or to the extent permitted by law, Lender or a receiver appointed by a court of competent jurisdiction, may enter and take possession of all or any part of the Property, and may exclude Borrower and its agents and employees wholly therefrom, and may have joint access with Borrower to the books, papers and accounts of Borrower. If Borrower shall for any reason fail to surrender or deliver the Property or any part thereof after such demand by Lender, Lender or such receiver may obtain a judgment or decree conferring on Lender or such receiver, the right to immediate possession of the Property or requiring the delivery of the Property to Lender or such receiver, and Borrower specifically consents to the entry of such judgment or decree. Upon every such entering upon or taking of possession, Lender or such receiver may hold, store, use, operate, manage and control the Property and conduct the business thereof, and Lender or such receiver may take any action required by applicable law or which Lender or such receiver believes necessary to enforce compliance with the environmental provisions contained herein and negotiate with governmental authorities with respect to the Property's environmental compliance and remedial measures in connection therewith. Lender and such receiver and their representatives shall have no liability for any loss, damage, injury, cost or expense resulting from any action or omission which was taken or omitted in good faith.

When the Indebtedness or any part thereof shall become due whether by acceleration or otherwise, Lender may, either with or without entry or taking possession as herein provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy to: (a) enforce payment of the Note or the performance of any term, covenant, condition or agreement of Borrower under this Mortgage, (b) foreclose the lien hereof for the Indebtedness or part thereof and sell the Property as an entirety or otherwise, as Lender may determine; (c) exercise its rights under Section 13 with respect to all or any portion of the Personal Property in accordance with the provisions of the UCC; and/or (d) pursue any other right or remedy available to it under or by the law and decisions of the State in which the Land is located. Notwithstanding any statute or rule of law to the contrary, the failure to join any tenant or tenants of the Property as party defendant or defendants in any foreclosure action or the failure of any such order or judgment to foreclose their rights shall not be asserted by Borrower as a defense in any civil action instituted to

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collect (a) the Indebtedness, or any part thereof or (b) any deficiency remaining unpaid after foreclosure and sale of the Property.

Upon any foreclosure sale, Lender may bid for and purchase the Property and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

16. **Appointment of Receiver or Mortgagee in Possession.** If an Event of Default is continuing or if Lender shall have accelerated the Indebtedness, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice, and without regard to the occupancy or value of any security for the Indebtedness or the insolvency of any party bound for its payment, to the appointment, at its option, of itself as mortgagee in possession, or of a receiver to take possession of and to operate the Property, and to collect and apply the Rents.

17. **Expenditures and Expenses.** In any action to foreclose the lien hereof or otherwise enforce Lender's rights and remedies hereunder or under the Note or any loan agreement or other document relating to the Loan, there shall be allowed and included as additional Indebtedness all Costs which may be paid or incurred by or on behalf of Lender. All Costs and such other costs, expenses and fees as may be incurred by Lender in the protection of the Property and the maintenance of the lien of this Mortgage, including, attorneys' fees and costs in any litigation or proceeding affecting this Mortgage, the Note, the Property or the Personal Property, including probate, appellate, and bankruptcy proceedings and any post-judgment proceedings to collect or enforce any judgment or order relating to this Mortgage or the Note or in preparation for the commencement or defense of any action or proceeding, shall be immediately due and payable to Lender, with interest thereon at the Default Interest Rate, and shall be secured by this Mortgage. "Costs" means all expenditures and expenses which may be paid or incurred by or on behalf of Lender including repair costs, payments to remove or protect against liens, attorneys' fees, receivers' fees, appraisers' fees, engineers' fees, accountants' fees, independent consultants' fees (including environmental consultants), all costs and expenses incurred in connection with any of the foregoing, Lender's out-of-pocket costs and expenses related to any audit or inspection of the Property, outlays for documentary and expert evidence, stenographers' charges, stamp taxes, publication costs, and costs (which may be estimates as to items to be expended after entry of an order or judgment) for procuring all such abstracts of title, title searches and examination, title insurance policies, and similar data and assurances with respect to title as Lender may deem reasonably necessary either to prosecute any action or to evidence to bidders at any sale of the Property the true condition of the title to, or the value of, the Property.

18. **Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Property shall be distributed and applied in the order of priority set forth in the Note with the excess, if any, being applied, to any party entitled thereto as their rights may appear.

19. **Future Advances.** This Mortgage is given to secure not only the existing Indebtedness, but also future advances (whether such advances are obligatory or are made at the option of Lender, or otherwise) made by Lender under the Note or this Mortgage,

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to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all Indebtedness secured hereby shall in no event exceed five (5) times the aggregate face amount of the Note.

20. **Waiver of Statute of Limitations.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien created by this Mortgage or to any action brought to enforce the Note or any other obligation secured by this Mortgage.

21. **Waiver of Homestead and Redemption.** Borrower hereby waives all right of homestead exemption in the Property. Borrower hereby waives all right of redemption on behalf of Borrower and on behalf of all other persons acquiring any interest or title in the Property subsequent to the date of this Mortgage, except decree or judgment creditors of Borrower.

22. **Governing Law; Severability.** This Mortgage shall be governed by and construed in accordance with the internal laws of the State of Illinois. The invalidity, illegality or unenforceability of any provision of this Mortgage shall not affect or impair the validity, legality or enforceability of the remainder of this Mortgage, and to this end, the provisions of this Mortgage are declared to be severable.

23. **Notices.** Any notice or other communication required or permitted to be given shall be in writing addressed to the respective party as set forth below and may be personally served, telecopied or sent by overnight courier or U.S. Mail and shall be deemed given: (a) if served in person, when served; (b) if telecopied, on the date of transmission if before 3:00 p.m. (Chicago time) on a business day; provided that a hard copy of such notice is also sent pursuant to (c) or (d) below; (c) if by overnight courier, on the first (1st) business day after delivery to the courier; or (d) if by U.S. Mail, certified or registered mail, return receipt requested on the fourth (4th) day after deposit in the mail postage prepaid.

Notices to Borrower:	Lake Halsted Properties, LLC 55 East Monroe Street Suite 2910 Chicago, Illinois 60603 Telecopy: 312-516-5710
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Notices to Lender:	c/o Lakewest Equity, Inc. 55 East Monroe Street Suite 2910 Chicago, Illinois 60603 Telecopy: 312-516-5710
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24. **Successors and Assigns Bound; Joint and Several Liability; Agents; Captions.** The covenants and agreements contained in the Note and this Mortgage shall bind, and the rights thereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Section 10 hereof. All covenants and agreements of Borrower shall be joint and several. In exercising any rights under the Note or this Mortgage or taking any actions provided for therein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

25. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. Borrower shall pay Lender's reasonable costs incurred in releasing this Mortgage and any financing statements related hereto.

26. **Loss of Note.** Upon notice from Lender of the loss, theft, or destruction of the Note and upon receipt of an affidavit of lost note and an indemnity reasonably satisfactory to Borrower from Lender, or in the case of mutilation of the Note, upon surrender of the mutilated Note, Borrower shall make and deliver a new note of like tenor in lieu of the then to be superseded Note.

28. **Waiver of Jury Trial.** BORROWER AND LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS MORTGAGE, THE OTHER LOAN DOCUMENTS OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (b) ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

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IN WITNESS WHEREOF, Borrower has executed this Mortgage or has caused the same to be executed by its duly authorized representatives as of the date first above written.

BORROWER:

Lake Halsted Properties, LLC

an Illinois limited liability company

By Lake Halsted Properties Limited Partnership

Its sole member

By Roger F. Ruttenberg Trust II dated March 6, 2003

Its general partner

By:  

Roger F. Ruttenberg, Trustee

Property of Cook County Clerk's Office

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Victoria Hattaway, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Roger F. Ruttenberg, as Trustee of the general partner of the sole member of Lake Halsted Properties, LLC, an Illinois limited liability company, 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 and as the free and voluntary act of the limited liability company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16 day of February, 2010.



[Signature]
Notary Public

My Commission Expires:

06/08/10

Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

Legal Description

LOTS 25 TO 48, BOTH INCLUSIVE, (EXCEPT THAT PART LYING WEST OF A LINE 50 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 28 AS CONDEMNED FOR WIDENING SOUTH HALSTED STREET) IN BLOCK 13 IN SECOND ADDITION TO WEST PULLMAN, BEING THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED FEBRUARY 6, 1893, AS DOCUMENT NUMBER 1812013, IN COOK COUNTY, ILLINOIS.

Property ID Numbers

- 1) 25-28-322-021-0000
- 2) 25-28-322-022-0000
- 3) 25-28-322-023-0000
- 4) 25-28-322-024-0000
- 5) 25-28-322-062-0000

Cook County Clerk's Office