

# UNOFFICIAL COPY

## Illinois Anti-Predatory Lending Database Program



Doc#: 1207611066 Fee: \$56.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/16/2012 11:51 AM Pg: 1 of 10

### Certificate of Exemption

*Accommodation*  
Report Mortgage Fraud  
800-532-8785

The property identified as: PIN: 16-31-319-035-0000

**Address:**

**Street:** 7000 Ogden Avenue

**Street line 2:**

**City:** Berwyn

**State:** IL

**ZIP Code:** 60402

**Lender:** First American Bank

**Borrower:** Wm. J. Cassidy Tire & Auto Supply Co.

**Loan / Mortgage Amount:** \$6,000,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 7770 et seq. because the application was taken by an exempt entity.

**STEWART TITLE COMPANY**  
2055 West Army Trail Road, Suite 110  
Addison, IL 60101  
630-289-4000

**Certificate number:** 1B567EB8-6B30-4645-AF73-7D26E70D60C8

**Execution date:** 03/01/2012

S Y  
P 10  
S N  
SC Y  
INT AS

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This Instrument Prepared By  
and After Recording Return To:  
First American Bank  
P.O. Box 307  
Hampshire, IL 60140

Permanent Tax Index Number:  
16-31-319-035

Street Address:  
7000 Ogden Avenue  
Berwyn, IL 60402

**FIRST AMENDMENT TO JUNIOR MORTGAGE**

This **FIRST AMENDMENT TO JUNIOR MORTGAGE** (this "*Amendment*") is made as of March 1, 2012 by between **Ahern Family, LLC**, an Illinois limited liability company (the "*Mortgagor*"), and **First American Bank**, an Illinois banking corporation (the "*Mortgagee*"), with an office at 1650 Louis Avenue, Elk Grove Village, Illinois 60007.

RECITALS:

A. Mortgagor previously executed in favor of Mortgagee the Mortgage dated as of October 20, 2009 and recorded on November 16, 2009 as document no. 0932040137 (the "*Mortgage*") encumbering the real property described on Exhibit A attached here to and incorporated herein, as security for the debt of Mortgagor to Mortgagee, as more particularly described therein.

B. Wm. J. Cassidy Tire & Auto Supply Co., an Illinois corporation (the "Borrower") has requested the Mortgagee to restructure and to increase the obligations secured by the Mortgage by entering into that certain Amended and Restated Loan and Security Agreement dated, as of March 1, 2012 by and between Borrower and Mortgagee (the "*Amended and Restated Loan Agreement*").

C. As a condition precedent to Mortgagee's willingness to execute the Amended and Restated Loan Agreement, the Mortgagee has required the Mortgage to be amended as provided herein.

D. NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Mortgagor and Mortgagee agree as follows:

AGREEMENTS:

1. RECITALS. The foregoing Recitals are hereby made a part of this Amendment.
2. DEFINITIONS. Capitalized words and phrases used herein without definition shall have the respective meanings ascribed to such words and phrases in the Amended and Restated Loan Agreement.

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## 3. AMENDMENTS TO MORTGAGE.

3.1. Wherever appearing in each of the Mortgage, the following terms shall have the meanings as described below:

(a) The terms "Note" shall mean, (i) that certain Revolving Note dated as of March 1, 2012, executed by Mortgagor and made payable to the order of Mortgagee, in the principal sum of Six Million and 00/100 Dollars (\$6,000,000.00).

(b) The term "Loan Agreement" shall mean the Amended and Restated Loan Agreement.

4. REPRESENTATIONS AND WARRANTIES. To induce the Mortgagee to enter into this Amendment, Mortgagor hereby certifies, represents, and warrants to the Mortgagee that:

4.1. Authorization. The Mortgagor is duly authorized to execute and deliver this Amendment and is and will continue to be duly authorized to perform its obligations under the Mortgage and any other Loan Documents to which it is a party.

4.2. No Conflicts. The execution and delivery of this Amendment and the performance by the Mortgagor of its obligations under the Mortgage, as amended hereby, and any other Loan Documents to which it is a party do not and will not conflict with any provision of law or of the organizational documents of the Mortgagor or of any other agreement binding upon the Mortgagor.

4.3. Validity and Binding Effect. The Mortgage, as amended hereby, and the other Loan Documents to which the Mortgagor is a party are legal, valid, and binding obligations of the Mortgagor, enforceable against the Mortgagor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application affecting the enforcement of creditors' rights or by general principles of equity limiting the availability of equitable remedies.

4.4. Compliance with Loan Agreement. The representations and warranties set forth in the Mortgage, as amended hereby, and the other Loan Documents to which Mortgagor is a party, are true and correct with the same effect as if such representations and warranties had been made on the date hereof, with the exception that all references to the financial statements shall mean the financial statements most recently delivered to the Mortgagee and except for such changes as are specifically permitted under the Mortgage, as amended hereby, and the other Loan Documents to which Mortgagor is a party. In addition, the Mortgagor has complied with and is in compliance with all of the covenants set forth in the Mortgage, as amended hereby, and the other Loan Documents to which it is a party.

4.5. No Event of Default. As of the date hereof, no Event of Default under the Mortgage, as amended hereby, or any other Loan Document to which Mortgagor is a party, or event or condition which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, has occurred or is continuing.

## 5. GENERAL.

5.1. Further Assurances. The Mortgagor agrees to execute and deliver such additional documents as may be necessary to give effect to this Amendment.

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5.2. Invalidity of Provisions; Governing Law. In the event that any provision of this Amendment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Mortgagor and the Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Amendment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect. This Amendment is to be construed in accordance with and governed by the laws of the State of Illinois.

5.3. Successors and Assigns. The Mortgage and this Amendment, and all provisions thereof and hereof, shall be binding upon and enforceable against the Mortgagor, its successors and assigns, any subsequent owner or owners of the Premises, and all persons claiming under or through the Mortgagor. This Amendment and all provisions hereof shall inure to the benefit of the Mortgagee and its successors and assigns.

5.4. Continuing Force and Effect of Loan Documents. Except as specifically modified or amended by the terms of this Amendment, all other terms and provisions of the Mortgage and the other Loan Documents to which the Mortgagor is a party are incorporated by reference herein, and in all respects, shall continue in full force and effect. The Mortgagor, by execution of this Amendment, hereby reaffirms, assumes, and binds itself to all of the obligations, duties, rights, covenants, terms, and conditions that are contained in the Mortgage and the other Loan Documents to which it is a party.

5.5. No Other Changes. Except as otherwise modified by this Amendment, the terms, provisions, covenants and agreements contained in the Mortgage shall remain unchanged and in full force and effect and are hereby ratified and affirmed by the parties. On or after the date hereof, each reference in the Mortgage or any other agreements or documents executed in connection therewith to "this Mortgage" or words of like import, shall, unless the context otherwise requires, be deemed to refer to the Mortgage as amended hereby.

5.6. Expenses. Nurseries shall pay all costs and expenses in connection with the preparation of this Amendment and other related loan documents including, without limitation, reasonable attorneys' fees and time charges of attorneys who may be employees of the Mortgagee or any affiliate or parent of the Mortgagee. Mortgagor shall pay any and all stamp and other taxes, Code search fees, filing fees, and other costs and expenses in connection with the execution and delivery of this Amendment and the other instruments and documents to be delivered hereunder, and agrees to save the Mortgagee harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such costs and expenses.

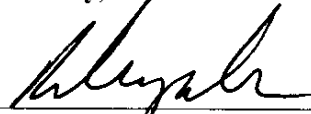
5.7. Counterparts. This Amendment may be executed in any number of counterparts, all of which shall constitute one and the same agreement.

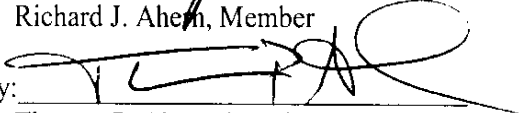
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IN WITNESS WHEREOF, the undersigned have caused this First Amendment to Junior Mortgage to be executed and delivered by their respective authorized signatories as of the date first above written.


**MORTGAGOR:**


**Ahern Family, LLC**

By:   
Richard J. Ahern, Member

By:   
Thomas P. Ahern, Member

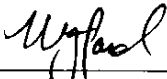
By:   
Bryan Ahern, Member

By:   
Kristen Covone, Member

By:   
Melanie Ahern, Member

**MORTGAGEE:**

**First American Bank,**  
an Illinois banking corporation

By:   
Matthew Paasch, Asst. Vice President

Property of Cook County Clerk's Office

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Mortgagor Acknowledgement

STATE OF IL )  
 ) SS.  
COUNTY OF COOK )

I, MATTHEW PAASCH, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Richard J. Ahern, personally known to me and known by me to be the Member, of Ahern Family, LLC, an Illinois limited liability company ("Borrower") in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the Borrower, for the uses and purposes therein set forth

GIVEN under my hand and Notarial Seal this March 1, 2012.



Notary's Signature: *Matthew Paasch*  
Notary's Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Acting in the County of COOK

STATE OF IL )  
 ) SS.  
COUNTY OF COOK )

I, MATTHEW PAASCH, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Thomas P. Ahern, personally known to me and known by me to be the Member, of Ahern Family, LLC, an Illinois limited liability company ("Borrower") in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the Borrower, for the uses and purposes therein set forth

GIVEN under my hand and Notarial Seal this March 1, 2013.



Notary's Signature: *Matthew Paasch*  
Notary's Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Acting in the County of COOK

# UNOFFICIAL COPY

STATE OF IL )  
 ) SS.  
COUNTY OF Cook )

I, MATTHEW PAASCH, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Thomas P. Ahern, personally known to me and known by me to be the Member, of Ahern Family, LLC, an Illinois limited liability company ("Borrower") in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the Borrower, for the uses and purposes therein set forth

GIVEN under my hand and Notarial Seal this March 1, 2012.



Notary's Signature: [Signature]  
Notary's Name: MATTHEW J PAASCH  
Notary Public, State of IL, County of Cook  
My commission expires: 10/13/15

Acting in the County of Cook

STATE OF IL )  
 ) SS.  
COUNTY OF Cook )

I, MATTHEW PAASCH, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Bryan Ahern, personally known to me and known by me to be the Member, of Ahern Family, LLC, an Illinois limited liability company ("Borrower") in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the Borrower, for the uses and purposes therein set forth

GIVEN under my hand and Notarial Seal this March 1, 2012.



Notary's Signature: [Signature]  
Notary's Name: MATTHEW J PAASCH  
Notary Public, State of IL, County of Cook  
My commission expires: 10/13/15

Acting in the County of Cook

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STATE OF IL )  
 ) SS.  
COUNTY OF COOK )

I, MATTHEW PAASCH, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Kristen Covone, personally known to me and known by me to be the Member, of Ahern Family, LLC, an Illinois limited liability company ("Borrower") in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the Borrower, for the uses and purposes therein set forth



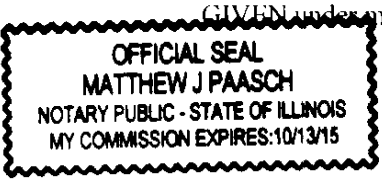
GIVEN under my hand and Notarial Seal this March 1, 2012.

Notary's Signature: [Signature]  
Notary's Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Acting in the County of COOK

STATE OF IL )  
 ) SS.  
COUNTY OF COOK )

I, MATTHEW PAASCH, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Melanie Ahern, personally known to me and known by me to be the Member, of Ahern Family, LLC, an Illinois limited liability company ("Borrower") in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the Borrower, for the uses and purposes therein set forth



GIVEN under my hand and Notarial Seal this March 1, 2012.

Notary's Signature: [Signature]  
Notary's Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Acting in the County of COOK



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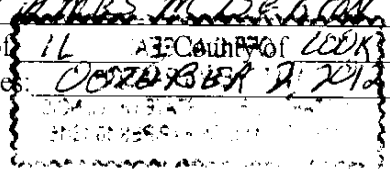
## Mortgagee Acknowledgement

STATE OF IL )  
 ) SS.  
 COUNTY OF COOK )

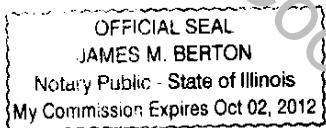
The foregoing instrument was acknowledged before me in COOK County, Illinois, on March 1, 2012, by Matthew Pasoch, who is a Assistant Pres of First American Bank, an Illinois banking corporation, on behalf of said banking corporation.



Notary's Signature: [Signature]  
 Notary's Name: JAMES M. BERTON  
 Notary Public, State of IL County of COOK  
 My commission expires: OCTOBER 2, 2012



Acting in the County of COOK



CLERK OF COOK COUNTY CLERK'S OFFICE



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## EXHIBIT A

### Legal Description

LOT 1 (EXCEPT THE SOUTH 40 FEET THEREOF) IN THE SUBDIVISION OF BLOCKS 45, 47, 48, 49, 50, 51 AND 52 In Circuit Court Partition Section 31, Township 39 Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 16-31-319-035

Commonly known as: 7000 Ogden Avenue  
Berwyn, IL 60402