

# UNOFFICIAL COPY

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION



Doc#: 1208744107 Fee: \$56.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 03/27/2012 04:44 PM Pg: 1 of 10

WILLIAM J. MCGRATH, et al., )  
)  
Plaintiffs, )  
)  
v. )  
)  
MICHAEL BROWNE ARRINGTON, Individually )  
and as BENEFICIARY and TRUSTEE OF THE )  
MICHAEL BROWNE ARRINGTON TRUST )  
DATED AUGUST 5, 2002, et al., )  
)  
Defendants. )

Case No. 08 CH 31746

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

PIN NO. 11-20-100-007-0000

**Location of the Property:**  
925 North Edgemere Court  
Evanston, Illinois 60202

Prepared By and Mail To:

Thomas W. Conklin, Jr.  
Conklin & Conklin, LLC  
53 West Jackson Blvd., Suite 1150  
Chicago, IL 60604  
Tel.: (312) 341-9500  
Firm No. 42002

**"THE SIGNATURES OF THE PARTIES EXECUTING THIS DOCUMENT  
ARE COPIES AND ARE NOT ORIGINAL SIGNATURES."**

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## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is made this this 19<sup>th</sup> day of March, 2012, by and between William J. McGrath, Maryann McGrath, Philip J. Carihfield, Jacqueline A. Carihfield, Vin Rosenthal, Suzanne G. Rosenthal, Alexander I. Rorke, Elizabeth J. Sturgeon, Janice B. Zulkey, as Beneficiary and Trustee of the Janice B. Zulkey Trust Dated September 27, 1996, Devon Bank, as Trustee Under Trust No. 4822 Dated October 20, 1983, Anne Goldstein as Beneficiary Under Devon Bank Trust No. 4822, and Ronald G. Lenzi (collectively “Plaintiffs”), on the one hand, and UNITED CENTRAL BANK (“United”), on the other hand.

### RECITALS

WHEREAS, United is fee simple title holder of the real property commonly known as 925 Edgemere Court, Evanston, Illinois (the “Property”) by virtue of a foreclosure action and subsequent Sherriff’s sale, and

WHEREAS, Plaintiffs filed a First Amended Complaint against United’s predecessor in interest, Jefferson Capital Group, Inc. in the Circuit Court of Cook County, Case No. 08 CH 31746 (the “Litigation”) in connection with the Property seeking a declaration that the easement created by documents 6201850 and 4879602 (the “Edgemere Court Easement”) runs with the land and requires the removal of all obstructions within said easement, including 4 pillars and certain landscaping, and replacing the uniform concrete sidewalk, parkway and asphalt roadway at the Property; and

WHEREAS, by virtue of United obtaining title to the Property, Plaintiffs sought leave to and were granted leave to Amend the First Amended Complaint to add United as a party defendant; and

WHEREAS, United takes no position as to the allegations and claims made by the Plaintiffs in the Litigation or the validity of the Edgemere Court Easement; and

WHEREAS, Plaintiffs have not added United as a party defendant to the Litigation, and Plaintiffs and United (individually referred to as a “Party” and collectively as the “Parties” to this Agreement) wish to resolve the Litigation prior to Plaintiffs naming United as a party defendant without the cost, expense and uncertainty of trial, and otherwise resolve all other claims and disputes between them, without any admission of liability by any Party;

NOW, THEREFORE, in consideration of the above recitals and of the other promises and undertakings herein contained, the Parties agree as follows:

### AGREEMENT

1. Consideration. In consideration of the mutual promises contained herein, the Plaintiffs and United agree that:

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- (A) United will remove the four (4) pillars from the Property as shown on Exhibit A attached hereto.
- (B) United will remove the carriage walk from the Property that is made of concrete brick pavers and is immediately adjacent to the curb and running along the west frontage of the Property on both sides of the driveway of the Property as shown as 'Concrete Walk' on Exhibit A, attached hereto.
- (C) United will remove all shrubs, bushes and trees and similar such plantings (not including grass or grass seed) in the area of the Property adjacent to the curb and running along the west frontage of the Property on both sides of the driveway of the Property as shown in detail on Exhibit A as the area of the Property east of the street and west of the solid black line running through the Property.
- (D) United will install a new concrete sidewalk in front of the Property. For the avoidance of doubt, the new sidewalk shall: (i) be five feet and four inches wide; (ii) connect end-to-end with the sidewalk at the north end of the property line of the Property; (iii) run within the Edgemere Court Easement, immediately adjacent to and parallel with the eastern boundary of the Edgemere Court Easement; and (iv) extend to the south line of the Property and connect with the paved driveway immediately adjacent to the south property line so as to line up with parallel lines projected from the edges of the sidewalk immediately south of such paved driveway, all as shown on Exhibit B, attached hereto.
- (E) United will repair to a seed-ready state the strip of land between the existing curb of the Edgemere Court roadway and new sidewalk to be installed pursuant to paragraph 1(D) above, as shown on Exhibit B.
- (F) a. United shall pay \$8,000 to the common fund used for the maintenance and improvement of the Edgemere Court Easement.
- b. Plaintiffs agree and acknowledge that, despite the Edgemere Court Easement requirements concerning the street surface, Plaintiffs have agreed not to enforce their rights against United with respect to this claim, and not to enforce their rights against the Property with respect to this claim until the remainder of the street is paved. For clarity, Plaintiffs' agreement to allow the Edgemere Court roadway surface running through the Property to remain "as is" shall not be construed as, and is not an admission that the roadway surface complies with the terms of the Edgemere Court Easement nor can this agreement be used to imply that the Plaintiffs, or their successors in interest to the Edgemere Court Easement have waived any right under the Edgemere Court Easement.
- (G) United will use commercially reasonable efforts to complete the work under Sections 1(A), 1(B) and 1(D) on or before April 1, 2012. Notwithstanding the foregoing, United will complete all work under Sections 1(A), 1(B), 1(C), 1(D)

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and 1(E) on or before May 1, 2012 or before transferring title to the Property, whichever occurs first.

- (H) Upon completion of the items in Section 1(A) through 1(F), Plaintiffs shall immediately file any and all required releases, including lien releases and a release for document number 0916331149, a *lis pendens* filed against the Property on behalf of Plaintiffs.
- (I) Each Party shall bear their own costs, expenses and attorney's fees with respect to the Litigation and this Agreement.

## 2. Full and Final Mutual Release

- (A) Upon satisfaction of all of United's obligations under this Agreement, for good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Plaintiffs and each of their respective trustees, beneficiaries, successors, agents, attorneys, heirs, and assigns, as applicable, do hereby release and forever discharge United and its respective trustees, beneficiaries, successors, agents, attorneys, heirs, and assigns, from any and all claims, actions, causes of action, demands, obligations and charges whatsoever, at law or in equity, whether presently known or unknown, whether matured or unmatured, potential or contingent, and whether in contract or otherwise, which Plaintiffs now have or may have, or hereafter can, shall or may have against United, for, upon or by reason of any action, cause or matter whatsoever, which arises out of, relates to, is connected with, or in any way pertains to the Litigation or the Property. Notwithstanding the provisions hereof, however, the Parties have not released each other as to the performance of the obligations contained in this Agreement and compliance with the terms of the Edgemere Court Easement documents recorded as Document Nos. 4879602 and 6201650, such compliance being deemed satisfied by United for the Property upon completion of the requirements of Section 1 of this Agreement and upon the conditions of Section 1.(F).b.
- (B) Upon satisfaction of all of Plaintiffs' obligations under this Agreement, for good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, United, and its respective trustees, beneficiaries, successors, agents, attorneys, heirs, and assigns, as applicable, do hereby release and forever discharge Plaintiffs and their respective trustees, beneficiaries, successors, agents, attorneys, heirs, and assigns from any and all claims, actions, causes of action, demands, obligations and charges whatsoever, at law or in equity, whether presently known or unknown, whether matured or unmatured, potential or contingent, and whether in contract or otherwise, which United now has or may have, or hereafter can, shall or may have against Plaintiffs, for, upon or by reason of any action, cause or matter whatsoever, which arises out of, relates to, is connected with, or in any way pertains to the Litigation or the Property. Notwithstanding the provisions hereof, however, the Parties have not released each other as to the performance of the obligations contained in this Agreement and compliance with the terms of the Edgemere Court Easement documents

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recorded as Document Nos. 4879602 and 6201850 but where such compliance being deemed satisfied by United for the Property upon completion of the requirements of Section 1 of this Agreement and upon the conditions of Section 1.(F).b.

3. No Admission of Liability. It is understood and agreed that the Parties have entered into this Agreement solely for purposes of compromise and settlement. Nothing in this Agreement shall be construed as an admission by any of the Parties as to the merit or lack of merit of any position, claim or assertion taken or made by any Party.
4. Binding On Successors. Plaintiffs represent that document numbers 6201850 and 4879602 (i) constitute a valid and binding restrictive covenant for each of the properties on Edgemere Court in Evanston, Illinois, including the Property, and (ii) are currently recorded with the Cook County Recorder of Deeds. United does not object to Plaintiffs recording of document numbers 6201850 and 4879602 against the Property and does not contest Plaintiffs claims regarding the Edgemere Court Easement. This paragraph is not intended, and shall not be deemed to expand or enlarge the provisions contained in document numbers 6201850 and 4879602 or the enforceability thereof under Illinois law, and for the avoidance of doubt, United makes no admission and takes no position as to the scope and terms of said documents.
5. Recording. The Parties further agree that this Agreement may be recorded of record against the Property , P.I.N. No. 11-20-100-007-0000.
6. Validity of Easement. United further agrees that it will not challenge or contest the validity of documents numbers 6201850 and 4879602, recorded against and encumbering the Property. Plaintiffs agree and acknowledge that the Property will be in compliance with the Edgemere Court Easement upon completion of the requirements of Section 1 of this Agreement and upon the conditions of Section 1.(F).b.
7. Authority. The Parties represent to the other that they have full authority and necessary approval to enter into and perform this Agreement in accordance with its terms and definitions. The Parties and the individuals who sign this Agreement on behalf of the Parties represent and warrant that such individuals have the express authority and consent of the Parties to sign this Agreement on behalf of such Parties and to bind them to the terms of this Agreement.
8. Drafting of Document. Each undersigned Party and his or her counsel have reviewed and participated in the drafting of this Agreement.
9. Review by Counsel. Each Party represents and warrants that it has read this Agreement and the Party or its representative has signed it voluntarily after

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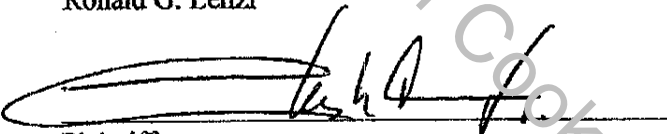
consultation with its respective counsel and understands that it contains a mutual release.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
11. Assignment and Parties in Interest. This Agreement shall inure to the benefit of and be binding upon the Parties named herein and their respective successors and assigns. Each Party represents that it has not assigned any claims that may be covered by this Agreement.
12. Entire Agreement. This Agreement constitutes the entire agreement between the Parties, and supersedes all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the Parties on the subject matter hereof. This Agreement may be amended or modified only by a writing executed by or on behalf of all Parties hereto.
13. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such provision to any other person or any other circumstance shall not be thereby affected. In such event, the Parties shall negotiate in good faith to replace the invalid or unenforceable provision with another reflecting the same relative distribution of economic benefits and burdens.
14. Disputes. To the extent that any dispute arises under this Agreement, any litigation shall be situated in Cook County, in the state of Illinois.
15. Breach. In the event of a breach of this Agreement by any Party, the Parties agree that, in the event of a judgment or finding by a court of competent jurisdiction that this Agreement has been breached by any Party, that in addition to all other remedies available at law or in equity, that such Party shall pay reasonable attorney's fees for the non-breaching Party in enforcing this Agreement.
16. Execution of Agreement. This Agreement may be signed in counterparts, and each executed copy shall be a counterpart original fully enforceable against the Party executing the counterpart, but all counterparts shall together constitute one instrument. Facsimile signatures of this Agreement shall be deemed valid and binding. Execution is complete at the time of the last necessary signature.
17. Section Headings. The headings contained in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

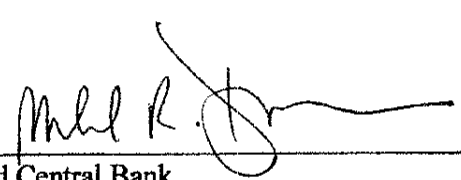
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

William J. McGrath, Maryann McGrath,  
Philip J. Cribfield, Jacqueline A. Cribfield,  
Vin Rosenthal, Suzanne G. Rosenthal,  
Alexander L. Rorke, Elizabeth J. Sturgeon,  
Janice B. Zulkey, as Beneficiary and Trustee of the  
Janice B. Zulkey Trust Dated September 27, 1996,  
Devon Bank, as Trustee Under Trust No. 4822  
Dated October 20, 1963  
Anne Goldstein, as Beneficiary Under Devon  
Bank Trust No. 4822,  
Ronald G. Lenzi

  
\_\_\_\_\_  
Plaintiffs

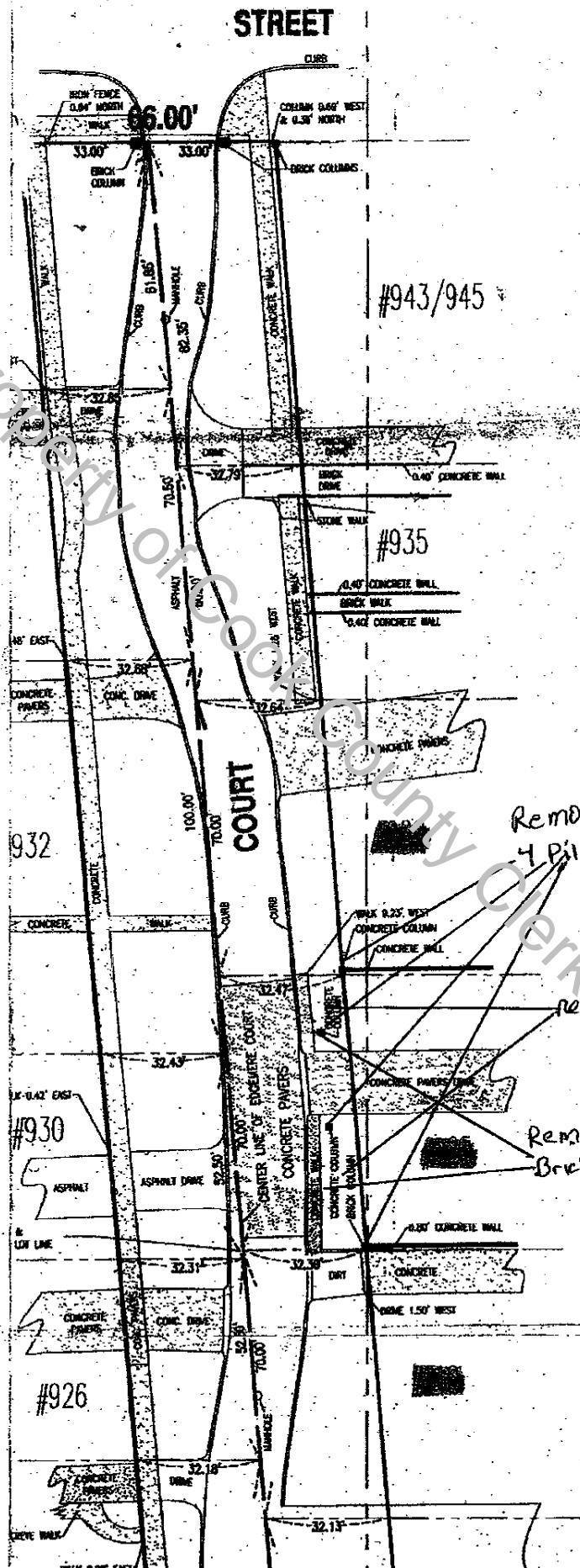
By: Thomas W. Conklin, Jr., Conklin & Conklin, LLC  
Counsel for Plaintiffs and Authorized to Execute on Their Behalf

  
\_\_\_\_\_  
United Central Bank

By: Michael R. Dover, Kelly Drye & Warren, LLC  
Counsel to United Central Bank and Authorized to Execute on Its Behalf

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EXHIBIT A



REMOVE:  
4 Pillars

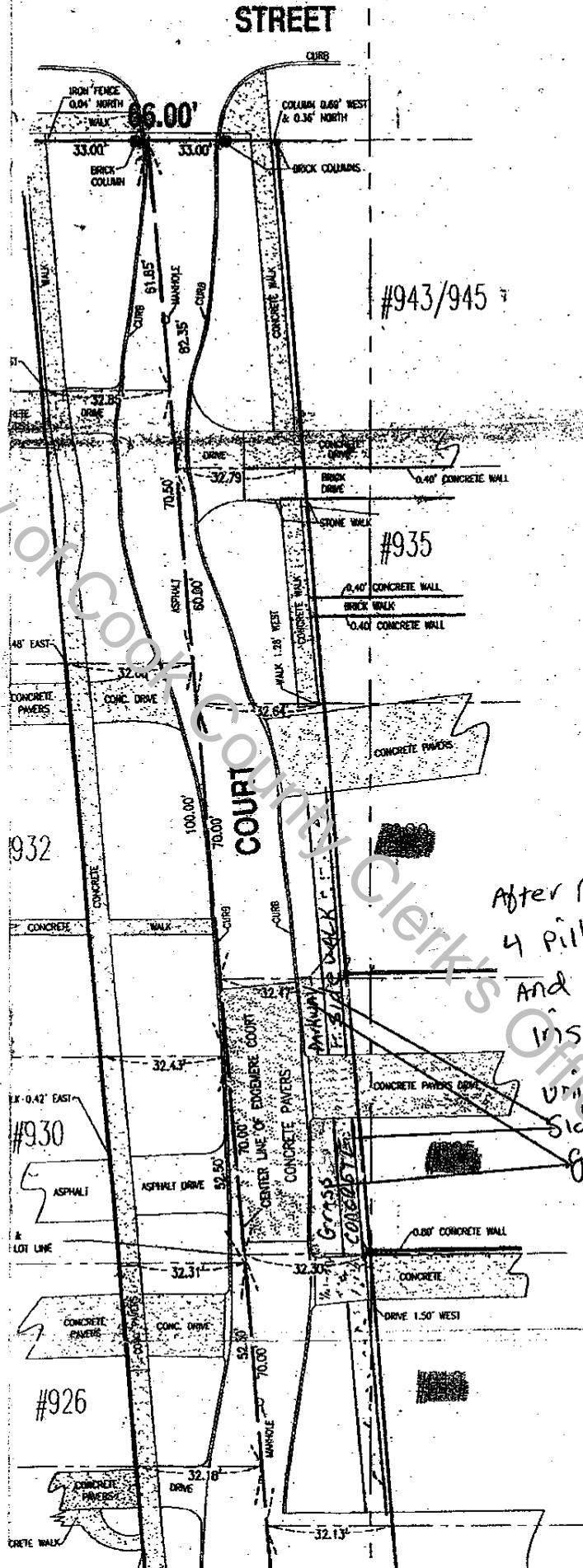
ALL  
REMOVE: Landscaping within  
easement

REMOVE:  
BRICK PAVEMENT WALK



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## EXHIBIT B



Property of Cook County Clerk's Office

After Removal of  
4 Pillars, Landscaping  
and WALK by curb  
INSTALL:  
Uniform concrete  
SIDEWALK and  
GRASS PARKWAY

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## LEGAL DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN LOT 12 IN KNOX'S RESUBDIVISION OF BLOCK 6 IN GIBBS LADD AND GEORGE'S ADDITION TO EVANSTON, AND IN THE SOUTH  $\frac{1}{2}$  OF THE SOUTH  $\frac{1}{2}$  OF THE NORTHWEST FRACTIONAL  $\frac{1}{4}$  (SOUTH OF LEE STREET) OF SECTION 20, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS COMMENCING AT A POINT IN THE EAST LINE OF EDGEMERE COURT 313 7 FEET (MEASURED ON THE EAST LINE) NORTHERLY FROM THE SOUTH LINE OF SAID  $\frac{1}{4}$  SECTION, AND RUNNING THENCE WEST TO THE CENTER OF EDGEMERE COURT FOR A PLACE OF BEGINNING, RUNNING THENCE NORTHERLY PARALLEL WITH THE EAST LINE OF SAID EDGEMERE COURT ON THE CENTER LINE THEREOF 140 FEET, THENCE EAST AND PARALLEL WITH THE SOUTH LINE OF SAID  $\frac{1}{4}$  SECTION TO THE WATER LINE OF LAKE MICHIGAN AS IT EXISTS FROM TIME TO TIME WHEN FREE FROM DISTURBING CAUSES, THENCE SOUTHERLY ALONG SAID WATER LINE TO A POINT IN A LINE DRAWN EAST AND PARALLEL TO THE SOUTH LINE OF SAID  $\frac{1}{4}$  SECTION AND 313 7 FEET NORTHERLY THEREFROM (MEASURED ON THE EAST LINE OF SAID EDGEMERE COURT), THENCE WEST TO THE PLACE OF BEGINNING, (EXCEPT FROM SAID DESCRIBED TRACT OF LAND THE NORTH 70 FEET THEREOF) TOGETHER WITH RIPARIAN RIGHTS APPERTAINING TO SAID PARCEL OF LAND, IN COOK COUNTY, ILLINOIS.

PIN 11-20-100-007-0000

PROPERTY ADDRESS 925 EDGEMERE COURT, EVANSTON, ILLINOIS