

# UNOFFICIAL COPY

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Doc#: 1507122056 Fee: \$60.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 03/12/2015 01:15 PM Pg: 1 of 12

Stephanie D. Uhler  
Simon, Lapidos & Uhler, LLC  
4709 W. Golf Road, Suite 475  
Skokie, Illinois 60076

CT

ST 5154027  
201454479  
CEB # of 9 SL

FOR RECORDERS USE ONLY

## ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT (this "Agreement") is entered into on December 30, 2014, between MK Investment Partners LLC, an Illinois limited liability company ("MK Investment") and Third Avenue Investments, LLC, a California limited liability company ("Third Avenue").

### RECITALS:

WHEREAS, MK Investment is the owner of the property commonly known as approximately 866 N. Franklin, Chicago, Illinois, as legally described on Exhibit A attached hereto and made a part hereof ("Apartment Building Parcel"). The Apartment Building Parcel is the northernmost lot of three contiguous lots on which an apartment building was constructed;

WHEREAS, Third Avenue is the owner of 868 N. Franklin, Chicago, Illinois, as legally described on Exhibit B attached hereto and made a part hereof ("MK Restaurant Parcel")

WHEREAS, the existing two-story building that is located on the MK Restaurant Parcel and shown on the survey attached as Exhibit D (the "Building") encroaches onto the Apartment Building Parcel by approximately .09 to .11 feet as legally described on Exhibit C attached hereto and made a part hereof and as shown on the survey attached hereto as Exhibit D and made a part hereof (the "Encroachment");

WHEREAS, MK Investment and Third Avenue desire to establish certain rights with respect to the Encroachment on the Apartment Building Parcel.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby

CCRD REVIEWER

*[Signature]* BUX 333-CT

S.P.S. 11

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acknowledged, the MK Investment and Third Avenue hereby agree as follows:

1. MK Investment consents to and agrees to allow the Encroachment to remain on the Apartment Building Parcel under the conditions set forth in this Agreement.

2. The Encroachment may remain on the Apartment Building Parcel until the Building is substantially demolished or entirely removed. When the Building is substantially demolished or removed, the Encroachment shall be physically removed at the sole cost and expense of Third Avenue and all rights acquired by Third Avenue to maintain the Encroachment shall automatically terminate without any further action.

3. In consideration of MK Investment allowing the Encroachment to exist on the Apartment Building Parcel, Third Avenue agrees to waive any claim or right it may have to maintain the Encroachment on the Apartment Building Parcel, except other than as specified in this Agreement, including the right of acquiring any interest in the Apartment Building Parcel by adverse possession or other legal action, whether statutory or otherwise.

4. The Recitals set forth herein are hereby incorporated in this Agreement as if they were specifically set forth herein. This Agreement shall run with the MK Restaurant Parcel and the Apartment Building Parcel and shall be binding upon and inure to the benefit of the MK Investments and Third Avenue, and their heirs, administrators, executors and successors and assigns.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.


**MK INVESTMENT PARTNERS LLC,  
an Illinois limited liability company**

**THIRD AVENUE INVESTMENTS,  
LLC, a California limited liability  
company**

By: DSSFC, LLC, an Illinois limited liability company, its member

By: 858 Franklin Holdings, LLC, an Illinois limited liability company, its manager

By:

  
Name: Steven E. Ciaccio  
Its: Manager

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Property of Cook County Clerk's Office

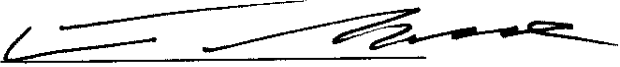
# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**MK INVESTMENT PARTNERS LLC,  
an Illinois limited liability company**

**THIRD AVENUE INVESTMENTS,  
LLC, a California limited liability  
company**

By: DSSG 6, LLC, an Illinois limited liability company, its member

By: 

By: 858 Franklin Holdings, LLC, an Illinois limited liability company, its manager

By: \_\_\_\_\_

Name: David Hornan

By: \_\_\_\_\_  
Name: Steven E. Claccio  
Its: Manager

Title: Manager

PROPERTY OF COOK COUNTY CLERK'S OFFICE

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STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK )

I, the undersigned, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Steven E. Ciaccio, Manager of 858 Franklin Holdings, LLC, an Illinois limited liability company is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as the free and voluntary act of the Company and his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official Notary seal, this 30<sup>th</sup> day of December, 2014

Stephanie D Uhl  
Notary Public



STATE OF CALIFORNIA     )  
  )  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that David Haddad, \_\_\_\_\_ Third Avenue Investments, LLC, a California limited liability company is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as the free and voluntary act of the Company and HIS free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official Notary seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Notary Public

# UNOFFICIAL COPY

STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK )

I, the undersigned, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Steven E. Ciaccio, Manager of 858 Franklin Holdings, LLC, an Illinois limited liability company is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as the free and voluntary act of the Company and his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official Notary seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2014

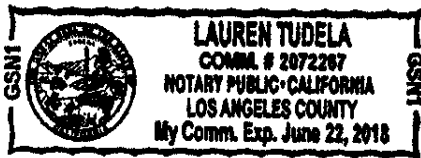
\_\_\_\_\_  
Notary Public

STATE OF CALIFORNIA    )  
  )  
COUNTY OF Los Angeles )

I, the undersigned, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that David Haddad, Manager of Third Avenue Investments, LLC, a California limited liability company is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as the free and voluntary act of the Company and his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official Notary seal, this 23<sup>rd</sup> day of December, 2014

[Signature]  
Notary Public



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### CONSENT OF MORTGAGEE

Lakeside Bank (the "Lender"), as mortgagee under a certain mortgage and related financing statements (collectively, the "Mortgage"), encumbering all or part of the Apartment Building Parcel, as legally described on Exhibit A attached hereto and made a part hereof, does hereby consent to the execution, delivery and recording of this Encroachment Agreement and subjects and subordinates the lien of the Mortgage to the Encroachment Agreement.

IN WITNESS WHEREOF, the Lender has caused this instrument to be signed by its duly authorized officers on its behalf on this 17 day of December, 2014

By: [Signature]  
Name: Jeff Wisniewski  
Title: VP, Commercial Lending

STATE OF ILLINOIS )  
  ) ss.  
COUNTY OF COOK

On this 17<sup>th</sup> day of December, 2014, A.D. 2014, before me \_\_\_\_\_ the undersigned officer, personally appeared Jeff Wisniewski, who acknowledged himself/herself to be the VP of Commercial Lending, and that he/she as such \_\_\_\_\_, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the bank by himself/herself as \_\_\_\_\_.

In witness whereof, I hereunto set my hand and official seal.

[Signature]  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION OF APARTMENT BUILDING PARCEL

LOT 20 IN BLOCK 27 IN JOHNSTON, ROBERTS AND STORR'S ADDITION TO CHICAGO IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 17-04-137-015-0000

Property: 858 W Franklin, Chicago, IL 60610



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## EXHIBIT B

### MK RESTAURANT PARCEL

LOTS 18 AND 19 IN BLOCK 27 IN JOHNSTON, ROBERTS AND STORR'S  
ADDITION TO CHICAGO IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF  
SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD  
PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 17-04-431-014-0000  
Property Address: 868 N. Franklin, Chicago IL 60610

Property of Cook County Clerk's Office

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## EXHIBIT C

### LEGAL DESCRIPTION OF ENCROACHMENT

THAT PART OF LOT 20 IN BLOCK 27 IN JOHNSTON, ROBERTS AND STORR'S ADDITION TO CHICAGO DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 20, THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 0.11 FEET ; THENCE WEST TO A POINT ON THE WEST LINE OF SAID LOT 20 THAT IS 0.09 FEET SOUTH OF THE SOUTHWEST CORNER; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 20, 0.09 FEET TO THE SOUTHWEST CORNER OF SAID LOT 20; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 20 TO THE POINT OF BEGINNING, IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

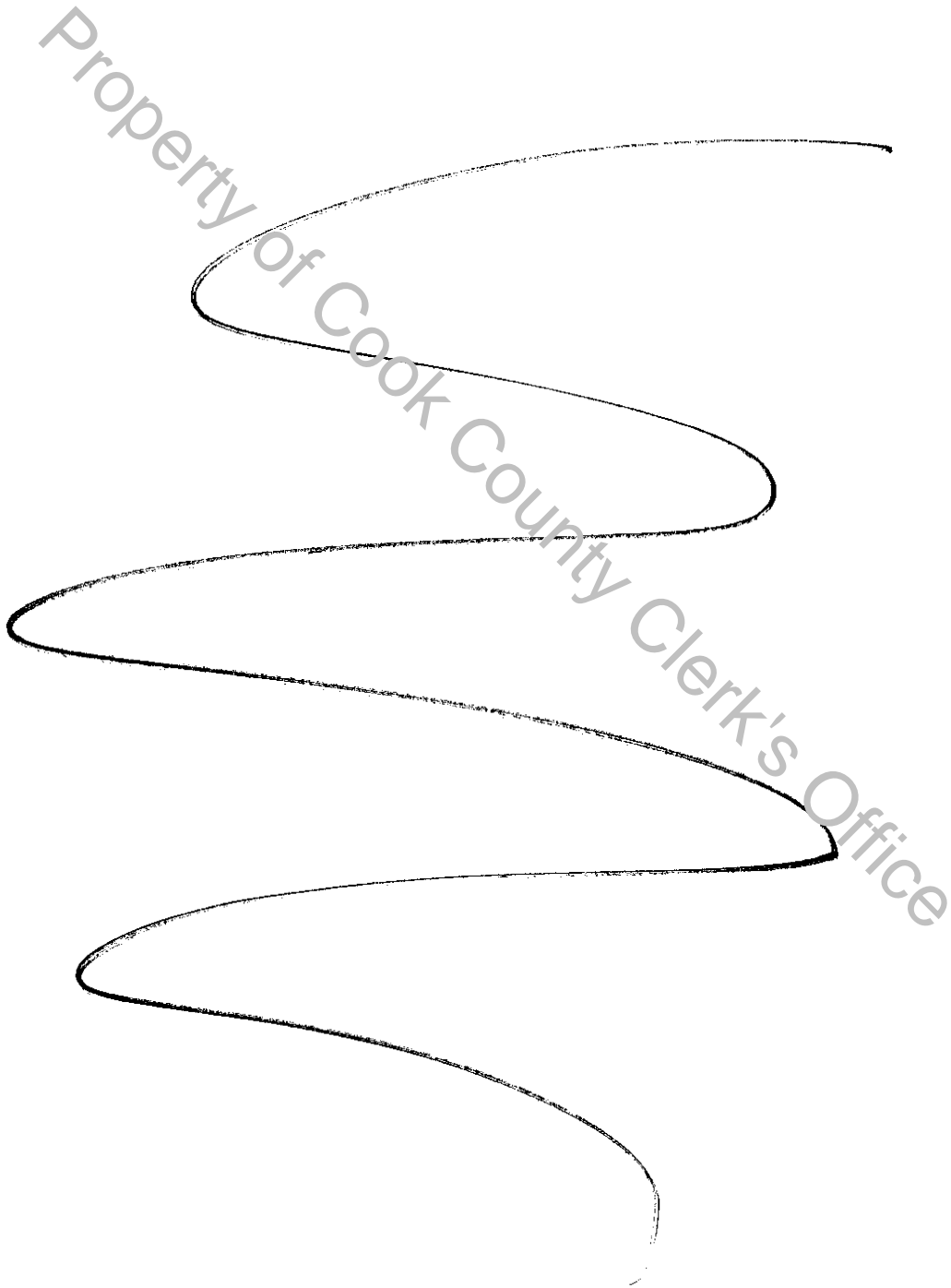
Pin: 17-04-437-015-0000

Property: 858 N. Franklin Chicago IL 60610

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EXHIBIT D

SURVEY OF ENCROACHMENT



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## PLAT OF SURVEY

Studnicka and Associates, Ltd.

studnicka2000@yahoo.com

Topographical  
Condominium  
Site Plans

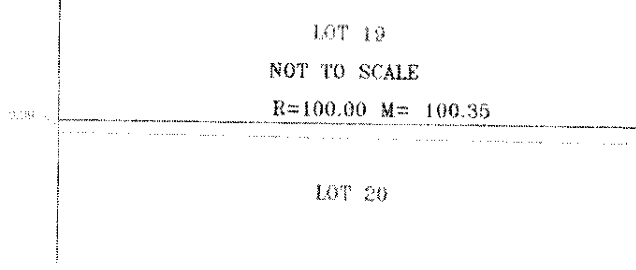
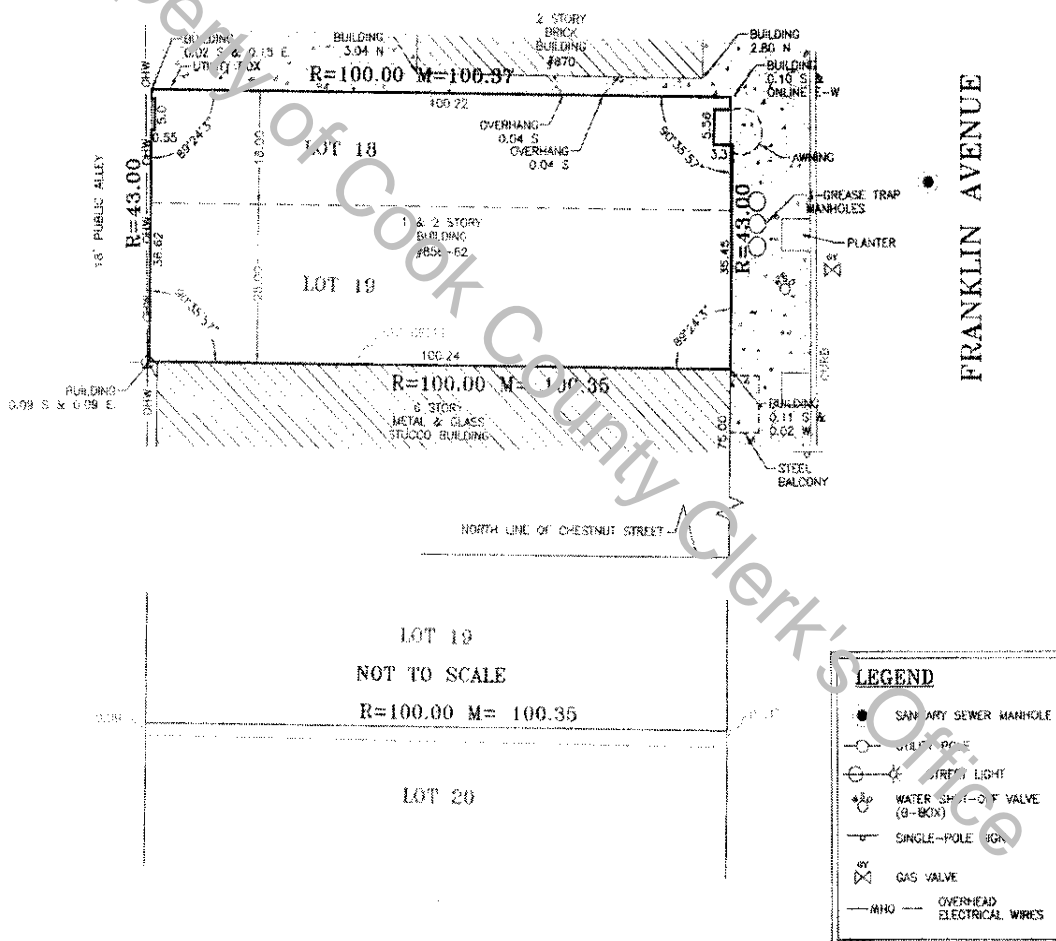


Residential  
Commercial  
ALTA

Tel. 815 485-0445  
Fax 815 485-0528

17901 Haas Road  
Mokena, Illinois 60448

THAT PART OF LOT 20 IN BLOCK 27 IN JOHNSTON, ROBERTS AND STORR'S ADDITION TO CHICAGO DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 20, THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 0.11 FEET ; THENCE WEST TO A POINT ON THE WEST LINE OF SAID LOT 20 THAT IS 0.09 FEET SOUTH OF THE SOUTHWEST CORNER; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 20, 0.09 FEET TO THE SOUTHWEST CORNER OF SAID LOT 20; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 20 TO THE POINT OF BEGINNING, IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.



Scale: 1" = 20 feet  
Distances are marked in feet and decimals.  
Ordered by: Phillip Ciaccio  
Order No.: 14-10-35  
Compare all points before building by same and at once report any difference.  
For building lines, restrictions, or easements not shown hereon, refer to abstract, deed or ordinance.  
Field work completed: 10/16/14  
Drawn by: J.G.S.  
Proofed by: T.S.  
Design Firm Registration # 184-002791

STATE OF ILLINOIS }  
COUNTY OF WILL }

Studnicka and Associates, Ltd., an Illinois Land Surveying Corporation does hereby certify that this professional service conforms to the current Illinois standards for boundary survey.

Mokena, IL, December 16, A.D. 2014

by

License No. 3304 Expires 11/30/16

