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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



Doc# 1735619088 Fee \$60.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/22/2017 03:55 PM PG: 1 OF 12

The property identified as: PIN: 17-09-223-015-0000

Address:

Street: 221 W. Erie

Street line 2:

City: Chicago

State: IL

ZIP Code: 60654

Lender: MB Fianancial

Borrower: 221 W. Erie LLC

Loan / Mortgage Amount: \$2,250,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 7B98852A-C76A-4DC4-9BAF-AB74894E801A

Execution date: 12/21/2017

CCRD REVIEW

12

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Property of Cook County PFS Office

REAL ESTATE MORTGAGE

THIS REAL ESTATE MORTGAGE (the "Mortgage") made as of this 21st day of December, 2017, by **221 WEST ERZE, LLC**, an Illinois limited liability company (the "Mortgagor"), to and in favor of **MB FINANCIAL BANK, N.A.** (the "Mortgagee").

WITNESSETH:

That to secure the payment of the obligations of Mortgagor to Mortgagee, as evidenced by Mortgagor's Secured Promissory Note of even date herewith in the principal amount of One Million One Hundred Twenty Five Thousand and No/100 Dollars (\$1,125,000.00), and all renewals and extensions thereof, together with interest thereon (the "Note") and the payment of any and all sums heretofore or hereafter loaned and advanced by Mortgagee to Mortgagor, and the performance and observance by the Mortgagor, and any guarantors of any indebtedness secured hereby, of all of the covenants, agreements, and conditions contained in this Mortgage, in all other instruments pertaining to the repayment of any indebtedness secured hereby and in any other security agreement relating to sums secured hereby, all in an amount not to exceed Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00), the Mortgagor hereby mortgages and conveys to the Mortgagee:

All those certain lots, pieces, or parcels of land with the buildings and improvements thereon situated, lying and being in the County of Cook, in the State of Illinois as set forth in **Exhibit "A"**, attached hereto and made a part hereof (the "Premises").

TOGETHER with all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances thereunto belonging or pertaining; all apparatus, equipment and appliances now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, ventilation and refrigeration; all machinery and other equipment of every nature and kind used or useful in connection with maintenance and operation of the Premises and intended

NCS 876656 20FS

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for the use of tenants or occupants; (all of the foregoing whether now on the Premises or hereafter erected, installed or placed thereon or therein, or whether physically attached thereto or not, are and shall be deemed a part of said real estate as between the parties hereto and all persons claiming by, through or under them, and a portion of the security for said indebtedness; and also all the estate, right, title and interest of the Mortgagor in and to the Premises. As to any of the property aforesaid which (notwithstanding the aforesaid declaration and agreement) does not so form a part and parcel of the real estate, this Mortgage is hereby deemed to be, as well, a security agreement under the Uniform Commercial Code of the State of Illinois (herein called the "Code") for the purpose of creating hereby a security interest in such property, which Mortgagor hereby grants to Mortgagee as Secured Party (as said term is defined in the Code), securing said indebtedness and obligations. Notwithstanding the foregoing, the property aforesaid shall not include any machinery, equipment or other personal property owned, leased or otherwise belonging to the tenants under any leases for space at the Premises or by any other third party or any such personal property such tenants or other third parties are entitled to remove pursuant to the leases. Mortgagor represents and warrants that it is lawfully seized of the Premises, that the same are unencumbered except for (i) those items expressly set forth as exceptions to title on the loan policy of title insurance issued to Mortgagee in connection with this Mortgage and by this reference incorporated herein, (ii) rights of tenants under existing or future leases for space at the Premises approved by Mortgagee (to the extent the consent of Mortgagee is required under the terms of this Mortgage or any other instruments pertaining to the repayment of any indebtedness secured hereby), and (iii) statutory liens, for real estate taxes and assessments not yet due and payable (collectively, the "Permitted Encumbrances"), and that it has good right, full power and lawful authority to convey and mortgage the same, and covenants that it will warrant and forever defend said Premises and the quiet and peaceful possession of the same against any and all claims of all persons whomsoever, except as to the Permitted Encumbrances;

TO HAVE AND HOLD the Premises unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, free from all rights and benefits under the homestead exemption laws of the State of Illinois, which said rights and benefits Mortgagor does hereby expressly release and waive.

Mortgagor covenants and agrees:

1. To pay, when due, all sums secured hereby.
2. Not to abandon the Premises; to keep, or cause to be kept, the Premises in good condition and repair, except for ordinary wear and tear, and not to commit or suffer material, physical waste; to pay for and complete within a reasonable time any building at any time in the process of erection upon the Premises; subject to the provisions of Section 8 below, to promptly repair, restore, or rebuild any building or improvement now or hereafter on the Premises which may become damaged or destroyed; to refrain from impairing or diminishing the value of the security and to make no material alterations of the Premises, except as required by law.
3. To comply in all material respects with, or cause to be complied with, all requirements of law or municipal ordinances governing the Premises and the use thereof; and to

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permit Mortgagee; subject to the rights of tenants under and compliance with the terms and provisions of the leases, to inspect the Premises at all reasonable times during normal business hours upon at least 48-hours prior written notice to Mortgagor.

4. To keep the Premises free from mechanics or other liens or claims for liens of any kind except the Permitted Encumbrances; to pay when due any indebtedness which may be secured by a lien or charge on the Premises, and, upon request, to exhibit to Mortgagee satisfactory evidence of the payment and discharge of such liens or claims. Notwithstanding the foregoing, Mortgagor may contest any lien or claim of lien on the Premises or any part thereof so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's reasonable opinion, Mortgagee's interests in the Premises and other property secured hereby are not jeopardized. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's interest.

5. To pay or cause to be paid, before any penalty attaches, all general taxes and to pay or cause to be paid, when due, all special taxes, special assessments, water charges, drainage charges, sewer service charges and other charges against the Premises, of any kind whatsoever, which may be levied, assessed, charged or imposed on the Premises or any part thereof. Mortgagor shall pay in full "under protest" any tax or assessment which Mortgagor may desire to contest, in the manner provided by law.

6. To promptly pay, or cause to be paid, all taxes and assessments assessed or levied under or by virtue of any state, federal or municipal law or regulation now existing or hereafter adopted against Mortgagee upon this Mortgage, or the debt hereby secured, or upon Mortgagee's interest under this Mortgage, provided however, that the total amount so paid for any such taxes pursuant to this paragraph together with the interest payable on said indebtedness shall not exceed the highest lawful rate of interest in the State of Illinois for commercial business loans of this type and provided further that in the event of the adoption of any law or regulation affecting such highest lawful rate of interest, the entire indebtedness secured by this Mortgage shall thereupon become immediately due and payable at the option of Mortgagee.

7. Unless Mortgagor is making monthly escrow deposits with Mortgagee in accordance with Section 10 below, to exhibit to Mortgagee, at least annually within thirty (30) days after the end of each calendar year, and at any time upon request, official receipts showing full payment of all taxes, assessments and charges which Mortgagor is required or shall elect to pay hereunder.

8. To keep, or cause to be kept by tenants under Leases at the Premises on behalf of Mortgagor, the Premises continuously insured until the indebtedness secured hereby is fully paid (or in case of foreclosure until expiration of the period of redemption, if any) against loss or damage under such types of hazard, liability and environmental hazard insurance, in such forms and amounts and written by such companies as may be approved or reasonably required from time to time by Mortgagee; all policies whether or not required by the terms of this Mortgage, shall contain loss payable clauses in favor of the Mortgagee (or, in case of foreclosure sale, in favor of

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the owner of the certificate of sale); in the event of loss, penalty or judgment, Mortgagor shall immediately notify Mortgagee in writing and Mortgagor hereby authorizes and directs each and every insurance company concerned to make payments for such loss, penalty or judgment jointly to Mortgagor and Mortgagee, and the insurance proceeds or any part thereof may be applied by Mortgagee, at its option, either to the reduction of the indebtedness hereby secured without any prepayment premium, penalty or fee, or to the restoration or repair of the property damaged, or to the payment of any fine, penalty, judgment or clean-up costs assessed against Mortgagor or Mortgagee and any application thereof to the indebtedness shall not relieve Mortgagor from making any payments herein required until the indebtedness is paid in full; provided, however, in the event the proceeds from a loss are Fifty Thousand and No/100 Dollars (\$50,000.00) or less, Mortgagor may retain the proceeds to be applied to the restoration of the Premises.

9. To deliver to Mortgagee all policies of insurance (or certificates evidencing the same), with evidence of premiums prepaid (renewal policies to be delivered not less than ten (10) days prior to the respective dates of expiration), and title guarantee policies and other evidence of title to the Premises, all of which shall be held by Mortgagee without liability, and in the event of foreclosure of this Mortgage or transfer of title to the Premises in extinguishment of said indebtedness, shall become the absolute property of Mortgagee. Mortgagee may, from time to time, at its option, waive, and after any such waiver, reinstate, any or all provisions hereof requiring deposit of insurance policies, by notice to Mortgagor in writing.

10. Upon the occurrence and during the continuance of an event of default by Mortgagor beyond any applicable notice and/or cure period, to make monthly deposits with Mortgagee, in addition to any other payments required to be made hereunder of a sum equal to one-twelfth (1/12th) of the yearly taxes and assessments which may be levied against the Premises. The amount of such taxes and assessments, when unknown, shall be reasonably estimated by Mortgagee. Such deposits shall be used by Mortgagee to pay such taxes and assessments when due, and Mortgagee shall make such deposits available for the payment of such taxes and assessments. Any insufficiency of such deposits to pay such taxes and assessments when due shall be paid by Mortgagor to Mortgagee within ten (10) days of written demand. If the funds so deposited exceed the amount required to pay such taxes and assessments for any year the excess shall be applied to a subsequent deposit or deposits, and the monthly deposit shall be adjusted by Mortgagee, and upon payment in full of the indebtedness secured hereby, shall be returned to Mortgagor. The enforceability of the covenants relating to taxes and assessments herein otherwise provided, shall not be affected except insofar as the obligations thereunder have been actually met by compliance with this paragraph, provided that it shall not be an event of default by Mortgagor under this Mortgage if there are sufficient funds deposited with Mortgagee to pay any such taxes or assessments and Mortgagee declines or fails to make such deposits available for use by Mortgagor. Mortgagee may from time to time at its option waive, and after any such waiver reinstate, any or all provisions hereof requiring deposits for taxes and assessments, by notice to Mortgagor in writing. While any such waiver is in effect, Mortgagor shall pay, or cause to be paid, taxes and assessments as herein elsewhere provided.

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11. To pay to Mortgagee any awards of damage resulting from condemnation proceedings or the taking or injury of the Premises for public use, and the proceeds or any part thereof shall be applied by Mortgagee, at its option, after the payment of all of its expenses, including costs and attorneys' fees, to the reduction of the indebtedness hereby secured without any prepayment premium, penalty or fee.

12. To deliver to Mortgagee each year this Mortgage is in effect, Mortgagor's annual federal and state income tax returns within one hundred twenty (120) days after the end of Mortgagor's fiscal year prepared by an accounting firm reasonably acceptable to Mortgagee. In addition, Mortgagor shall deliver reports in a form reasonably acceptable to Mortgagee in order for Mortgagee to monitor Mortgagor's assets and liabilities and financial performance within fifteen (15) days after written request by Mortgagee. Mortgagor further covenants and agrees that any distributions to the members of Mortgagor during any fiscal year shall not exceed Mortgagor's net income measured annually at the end of the fiscal year.

13. In the event of default beyond any applicable notice and/or cure period in performance of any of the covenants or agreements herein contained, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor, in any form and manner deemed expedient and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee to protect the Premises and the lien hereof shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the Default Rate (as defined in the Note). Mortgagee, making any payment hereby authorized relating to taxes or assessments, shall be the sole judge of the legality and validity thereof and of the amount necessary to be paid in satisfaction thereof.

14. If (a) default be made in payment when due of any payment of principal or interest under the Note or any other sum secured hereby, or (b) default be made in any of the other covenants or agreements herein contained to be performed by Mortgagor; provided, however, that if such failure by its nature can be cured, then Mortgagor shall have a period ("Cure Period") of thirty (30) days after Mortgagor receives written notice from Mortgagee of such failure to cure the same and an event of default shall not be deemed to exist during the Cure Period, provided further that if Mortgagor commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for thirty (30) additional days, but in no event shall the Cure Period be longer than sixty (60) days in the aggregate, or (c) if there be a default beyond any applicable notice and/or cure period in the terms and/or conditions of any agreement between the Mortgagor or any guarantor relating to the sums hereby secured or to any indebtedness of Mortgagor or any guarantor, or (d) if any proceedings be instituted or process issued (i) to enforce any other lien, charge, or encumbrance against the Premises, or (ii) against the Mortgagor or any guarantor under any bankruptcy or insolvency laws,

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or (iii) to place the Premises or any part thereof in the custody or control of any court through its receiver or other officer, and such proceedings are not dismissed or stayed on appeal or such process withdrawn within sixty (60) days, or (e) in the event the Mortgagor shall create or permit to exist any mortgage, lien or other encumbrance on the Premises (other than the encumbrance represented by this Mortgage and other than Permitted Encumbrances) which remains undischarged for a period of sixty (60) days, or (f) in the event the Mortgagor shall convey title to the Premises to any person or persons other than the Mortgagor, enter into any lease or other agreement containing an option to purchase or receive title to the Premises, or shall suffer or permit Mortgagor's equity of redemption to become vested in any person or persons other than the Mortgagor, or (g) if the Mortgagor or any guarantor, makes an assignment for the benefit of creditors, or is at any time insolvent, or (h) if, at any time, litigation is commenced or reinstated contesting Mortgagor's ownership of the Premises or the validity of the lien of Mortgagee in the Premises and such proceedings are not dismissed or stayed on appeal or such process withdrawn within sixty (60) days, or (i) if by or with the consent or at the instance of the Mortgagor, proceedings to extend the time of payment of any sums secured hereby or to change the terms of this Mortgage be instituted and such proceedings are not dismissed or stayed on appeal or such process withdrawn within sixty (60) days, or (j) if both Ronald E. Krueck and Mark P. Sexton are no longer members of Mortgagor, other than due to the retirement or death of such persons; then

- I. All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable without notice, with interest thereon.

- II. Mortgagee may immediately foreclose this Mortgage. The Court in which any proceeding is pending for that purpose may, at once or at any time thereafter, either before or after sale, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Premises, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made) for the benefit of Mortgagee, with power to collect the rents, issues and profits of the Premises, due and to become due during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the Premises, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Premises, and may pay all or any part of the indebtedness secured hereby or any deficiency decree, and Mortgagor hereby grants to Mortgagee the right, acting through itself, its agents or attorneys, to the extent permitted by applicable law, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Premises and property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorneys' fees, and all expenses incurred in the protection, care,

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maintenance, management and operation of the Premises, apply the remaining net income upon the indebtedness secured hereby, or upon any deficiency decree entered by virtue of any sale held pursuant to a decree of foreclosure.

15. In any foreclosure of this Mortgage there shall be allowed and included in the decree for sale, to be paid out of the rents or proceeds of such sale:

(a) All sums secured hereby and remaining unpaid,

(b) All sums advanced or paid by Mortgagee pursuant to this Mortgage with interest,

(c) All court costs, reasonable attorneys' fees, appraisers' fees, expenditures for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title guarantee policies, Torrens certificates and similar data with respect to title, as Mortgagee may deem necessary in connection with (i) any proceeding, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant, or defendant by reason of this Mortgage or any indebtedness hereby secured; or (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced. All expenditures and expenses of this type mentioned in this subparagraph (c) shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon. The proceeds of any foreclosure sale shall be distributed and applied to the items described in subparagraphs (a), (b), and (c) in order of priority inversely to the manner in which said subparagraphs are above listed and any surplus of the proceeds of such sale shall be paid to Mortgagor.

16. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person.

17. No remedy or right of Mortgagee shall be exclusive of but shall be in addition to every other remedy of right now, or hereafter, existing at law or in equity. No delay in exercising, or omission to exercise, any remedy or right, accruing on any default shall impair any such remedy or right, or shall be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

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18. Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of said Note, and without notice or consent:

- (a) release any person liable for payment of all or any part of the indebtedness or for performance of any obligation,
- (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof,
- (c) exercise or refrain from exercising or waive any right Mortgagee may have,
- (d) accept additional security of any kind, or
- (e) release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property mortgaged hereby.

Upon full payment of all sums secured hereby at the time and in the manner provided, then this conveyance shall be null and void and a reconveyance or release of the Premises shall be made by Mortgagee to Mortgagor.

19. If any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq. of the Illinois Compiled Statutes) (the "Act") the provisions of the Act shall take precedence over the Mortgage provisions, but shall not invalidate or render unenforceable any Mortgage provision that can be construed in a manner consistent with the Act.

20. All provisions hereof shall inure to and bind the respective successors, vendees and assigns of the parties hereto, and the word Mortgagor shall include all persons claiming under or through Mortgagor (including, if this Mortgage is executed by a trust or trustee, any beneficiary thereof) and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note, any guaranty or this Mortgage. Wherever used, the singular number shall include the plural and the singular, and the use of any gender shall be applicable to all genders. This Mortgage shall be construed pursuant to the laws of the State of Illinois. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated to be invalid, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included.

[SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF, the Mortgagor has executed this Mortgage as of the day and year first written above.

MORTGAGOR

**221 WEST ERIE, LLC, an Illinois
limited liability company**

**By: _____
Name: Mark P. Sexton
Its: Manager**

Prepared by:

David A. Kallick
Benjamin, Gussin & Associates
801 Skokie Blvd., Suite 100
Northbrook, Illinois 60062
(847) 205-9700

Return to:

David A. Kallick
Benjamin, Gussin & Associates
801 Skokie Blvd., Suite 100
Northbrook, Illinois 60062

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss.
 COUNTY OF COOK)

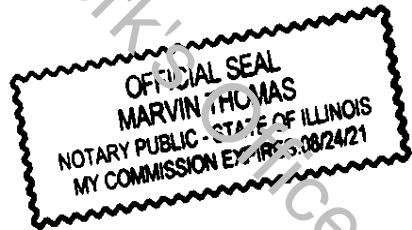
I, the undersigned, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY that Mark P. Sexton, personally known to me a Manager of 221 West Erie, LLC, an Illinois limited liability company, and the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of the Mortgagor for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 19th day of December, 2017.



 Notary Public

My commission expires: 8/24/21



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EXHIBIT "A"

Legal Description

PARCEL 1:

LOT 12 IN BLOCK 15 IN NEWBERRY'S ADDITION TO CHICAGO, A SUBDIVISION OF THE EAST ½ OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR MAINTENANCE OF A BRICK WALL AS CREATED BY AGREEMENT FOR THE DECLARATION AND MAINTENANCE OF EASEMENT RECORDED FEBRUARY 1, 1965 AS DOCUMENT 19370983.

PIN: 17-09-223-015-0000

Address of Property: 221 West Erie Street
Chicago, Illinois 60614