

# UNOFFICIAL COPY

## AVONDALE PRIME MORTGAGE

5-19988-97  
14-28-105-082-1024

86490260

### AVONDALE PRIME MORTGAGE

THIS MORTGAGE is made this 17th day of October, 19 86, between the Mortgagor, James R. O'Brien and Mary Ann O'Brien, his wife

(herein "Borrower"), and the Mortgagee, AVONDALE FEDERAL SAVINGS BANK, a federally-chartered savings bank, whose address is 20 North Clark Street, Chicago, Illinois (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of (\$ 25,000.00) Dollars, as evidenced by Borrower's Note, dated October 17, 1986, providing for monthly payments of principal and/or interest and with the balance of the indebtedness, if not sooner paid, due and payable on October 16, 2016;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the property legally described in the attached Exhibit "A" located in the County of Cook, State of Illinois, which has the address of 426 West Barry, Unit 311, Chicago, Illinois 60657

("Property Address")

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property".

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered with the exception of those items, if any, listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any encumbrances, declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

#### Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due without set-off, recoupment, or deduction, the principal of and interest on the indebtedness evidenced by the Note, and late charges as provided in the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly installments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments, which may attain priority over this Mortgage, and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account, or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 30 days from the date notice is mailed by Lender to Borrower requesting payment thereof.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. **Application of Payments.** All payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, then to the principal of the Note, including any amounts considered as added thereto under the terms hereof.

4. **Charges; Liens.** Borrower shall promptly pay all obligations secured by a mortgage or trust deed affecting the Property, taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage with respect to any sum.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; Provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage and all other mortgages and trust deeds with respect to the Property.

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The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; Provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. If under paragraph 17 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

**6. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. If a Condominium or Planned Unit Development Rider is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such Rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the Rider were a part hereof.

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or any mortgage or trust deed affecting the property, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under paragraph 2 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 7 with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be considered as so much additional principal due under the Note payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.

**8. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, providing that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

**9. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

**10. Borrower Not Released.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

**11. Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

**12. Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

**13. Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. 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.

# UNOFFICIAL COPY

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This instrument recorded by \_\_\_\_\_  
20 North Clark Street  
Chicago, Illinois 60602  
Marc J. Strauss

My Commission expires: 8/19/89  
Notary Public

Given under my hand and official seal, this 17th day of October, 19 86

I, the undersigned, a Notary Public in and for said county and state, do hereby certify that personally known to me to be the same person(s) whose name(s) James R. O'Brien and Mary Ann O'Brien, his wife subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

STATE OF ILLINOIS  
COUNTY OF COOK

Mary Ann O'Brien  
-Borrower

James R. O'Brien  
-Borrower

IN WITNESS WHEREOF, Borrower has executed this Mortgage

20. Waiver of Homestead. Borrower hereby waives all right of homestead exemption in the Property.

19. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage after receipt of a release charge from Borrower. Borrower shall also pay all costs of recordation, if any.

18. Upon acceleration under paragraph 17 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, in person, or agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of (i) the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to a court only for those rents actually received.

17. Acceleration Remedies. Upon Borrower's default in the performance of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender may at its option, and without notice to Borrower, declare due and payable all sums secured by this Mortgage and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all estimated and actual expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, and costs of documentary evidence, abstracts, and title reports.

16. Assignment of Rents; At payment of or foreclosure Lender in Possession. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property; Provided, that Borrower shall, prior to acceleration under paragraph 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

15. Upon acceleration under paragraph 17 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, in person, or agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of (i) the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to a court only for those rents actually received.

14. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

13. Governing Law; Severability. This Mortgage shall be governed by the law of Illinois. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable. Time is of the essence of this Agreement.

12. Transfer of the Property; Assumption. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this mortgage which does not relate to a transfer of rights of occupancy in the property, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, (e) a transfer, in which the transferee is a person who occupies or will occupy the property, which is (1) a transfer to a relative resulting from Borrower's death, (2) a transfer where the Borrower's spouse or child(ren) becomes an owner of the Property, or (3) a transfer resulting from a decree of dissolution or marriage, legal separation agreement, or from an incidental property settlement agreement by which the Borrower's spouse becomes an owner of the Property, or (4) a transfer to an inter vivos trust in which the Borrower is and remains the beneficiary and occupies or shares in the Property, unless as a condition precedent to such transfer, the Borrower refuses to provide the Lender with reasonable means acceptable to the Lender by which the Lender will be assured of timely notice of any subsequent transfer of the beneficial interest in the Property, or (5) a transfer to an inter vivos trust in which the Borrower is and remains the beneficiary and occupies or shares in the Property, unless as a condition precedent to such transfer, the Borrower refuses to provide the Lender with reasonable means acceptable to the Lender by which the Lender will be assured of timely notice of any subsequent transfer of the beneficial interest in the Property, or (6) a transfer by which the Lender is hereby subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the proceeds of the loan hereby secured. Notwithstanding any of the above, if the Borrower transfers the Property to a third party who would qualify for a loan in the amount due on the Note at the time of the transfer, as determined by Lender's underwriting standards, in effect at that time, then Lender will not unreasonably refuse to consent to the transfer upon the payment of an assumption fee. The assumption fee will not exceed the Lender's then current charges for the origination of new mortgages including, but not limited to, discount and origination fees.

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UNIT 311 AND PARKING SPACE 17 TOGETHER WITH ITS UNDIVIDED 1.6003 PERCENT INTEREST IN THE COMMON ELEMENTS IN 426 WEST BARRY CONDOMINIUM, AS DELINEATED AND DEFINED IN THE DECLARATION RECORDED AS DOCUMENT NUMBER 25997154 IN THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

14-28-105-082-1024

" EXHIBIT A "

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THIS DOCUMENT IS THE PROPERTY OF THE CLERK OF COOK COUNTY AND IS LOANED TO YOU FOR YOUR INFORMATION ONLY. IT IS NOT TO BE REPRODUCED OR DISTRIBUTED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE CLERK OF COOK COUNTY. ANY REPRODUCTION OR DISTRIBUTION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF THE CLERK OF COOK COUNTY IS STRICTLY PROHIBITED.

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EXHIBIT

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**AVONDALE PRIME MORTGAGE**

5-19988-97

**CONDOMINIUM RIDER**

THIS CONDOMINIUM RIDER is made this 17th day of October, 19 86, and is incorporated into and shall be deemed to amend and supplement a Mortgage (herein "security instrument") dated of even date herewith, given by the undersigned (herein "Borrower") to secure Borrower's Note to AVONDALE FEDERAL SAVINGS BANK (herein "Lender") and covering the Property described in the security instrument and located at:

426 West Barry, Unit 311, Chicago, Illinois 60657

(Property Address)

The Property comprises a unit in, together with an undivided interest in the common elements of, a condominium project known as 426 West Barry Condominium (Herein "Condominium Project"). (Name of Condominium Project)

CONDOMINIUM COVENANTS. In addition to the covenants and agreements made in the security instrument, Borrower and Lender further covenant and agree as follows:

**A. Assessments.** Borrower shall promptly pay, when due, all assessments imposed by the Owners Association or other governing body of the Condominium Project (herein "Owners Association") pursuant to the provisions of the declaration, by-laws, code of regulations or other constituent document of the Condominium Project.

**B. Hazard Insurance.** So long as the Owners Association maintains a "master" or "blanket" policy on the Condominium Project which provides insurance coverage against fire, hazards included within the term "extended coverage", and such other hazards as Lender may require, and in such amounts and for such periods as Lender may require, then:

- (i) Borrower's obligation under Covenant 5 to maintain hazard insurance coverage on the Property is deemed satisfied; and
- (ii) the provisions in Covenant 5 regarding application of hazard insurance proceeds shall be superseded by any provisions of the declaration, by-laws, code of regulations or other constituent document of the Condominium Project or of applicable law to the extent necessary to avoid a conflict between such provisions and the provisions of Covenant 5. For any period of time during which such hazard insurance coverage is not maintained, the immediately preceding sentence shall be deemed to have no force or effect. Borrower shall give Lender prompt notice of any lapse in such hazard insurance coverage.

In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any such proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the security instrument, with the excess, if any, paid to Borrower.

**C. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, partition or subdivide the Property or consent to:

- (i) the abandonment or termination of the Condominium Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;
- (ii) any material amendment to the declaration, by-laws or code of regulations of the Owners Association, or equivalent constituent document of the Condominium Project, including, but not limited to, any amendment which would change the percentage interests of the unit owners in the Condominium Project; or
- (iii) the effectuation of any decision by the Owners Association to terminate professional management and assume self-management of the Condominium Project.

**D. Remedies.** IF BORROWER BREACHES BORROWER'S COVENANTS AND AGREEMENTS HEREUNDER, INCLUDING THE COVENANT TO PAY WHEN DUE CONDOMINIUM ASSESSMENTS, THEN LENDER MAY INVOKE ANY REMEDIES PROVIDED UNDER THE SECURITY INSTRUMENT, INCLUDING, BUT NOT LIMITED TO, THOSE PROVIDED UNDER COVENANT 17, MAY NOTIFY THE OWNERS ASSOCIATION THAT THE BORROWER IS IN DEFAULT UNDER THE TERMS OF HIS MORTGAGE, AND MAY REQUEST THAT THE OWNERS ASSOCIATION FURNISH A STATUS OF BORROWER'S ACCOUNT.

IN WITNESS WHEREOF, Borrower has executed this Condominium Rider.

James R. O'Brien  
James R. O'Brien Borrower

Mary Ann O'Brien  
Mary Ann O'Brien Borrower

STATE OF ILLINOIS )  
  )SS  
COUNTY OF Cook )

I, the undersigned, a Notary Public in and for said County and state, do hereby certify that James O'Brien and Mary Ann O'Brien, his wife personally known to me to be the same person(s) whose name (s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 17th day of October, 19 86.

My Commission expires: 8/19/89  
Douglas  
Notary Public

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COOK COUNTY RECORDER

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