



ENVIRONMENTAL DISCLOSURE
DOCUMENT FOR TRANSFER OF
REAL PROPERTY

02 (1705) (JK)

The following information is
provided pursuant to the Responsible
Property Transfer Act of 1988

Seller: John M. Smyth Company

Buyer: Kimco Select Chicago 694, L.L.C.

Document No.: _____

I. PROPERTY IDENTIFICATION

A. Address of property: 1733 East Woodfield Road, Schaumburg

Street 1733 East Woodfield Road City or Village Schaumburg Township _____
Permanent Real Estate Index No.: 01-23-400-004

B. Legal Description:

Section 13 Township 41 N Range 10

Enter or attach current legal description in this area:

See Exhibit A attached hereto.

Prepared by: Edward P. Zimmer

Return to: _____

name

name

6111 Broken Sound Parkway, N.W., Boca Raton, FL
address 33487

address

LIABILITY DISCLOSURE

Transferors and transferees of real property are advised that their ownership or other control of such property may render them liable for any environmental clean-up costs whether or not they caused or contributed to the presence of environmental problems associated with the property.

C. Property Characteristics:

Lot Size 700' X 450'

Acreage 7.3

Check all type of improvement and uses that pertain to the property:

Apartment building (6 units or less)

Industrial building

Commercial apartment (over 6 units)

Farm, with buildings

Store, office, commercial building

Other, specify

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II. NATURE OF TRANSFER:

A. (1) Is this a transfer by deed or other instrument of conveyance?

YES NO
X _____

(2) Is this a transfer by assignment of over 25% of beneficial interest of an Illinois land trust?

_____ _____

(3) A lease exceeding a term of 40 years?

_____ _____

(4) A mortgage or collateral assignment of beneficial interest?

_____ _____

B. (1) Identify Transferor:

John M. Smyth Company, c/o Levitz Furniture Corporation, 6111 Broken Sound Pky, N.W.
Boca Raton, FL 33487-2799

Name and Current Address of Transferor

Name and Address of Trustee if this is a transfer of beneficial interest of a land trust.

Trust No.

(2) Identify person who has completed this form on behalf of the Transferor and who has knowledge of the information contained in this form: Edward P. Zimmer, Vice President of John M. Smyth Company

6111 Broken Sound Parkway, N.W., Boca Raton, Florida 33487 561-994-5150

Name, Position (if any) and address

Telephone No.

C. Identify Transferee: Kimco Select Chicago 694, L.L.C., c/o Kimco Realty Corporation,

Name and Current Address of Transferee 3333 New Hyde Park Road, New Hyde Park,
New York 11042

III. NOTIFICATION

Under the Illinois Environmental Protection Act, owners of real property may be held liable for costs related to the release of hazardous substances.

1. Section 22.2(f) of the Act states:

"Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (j) of this Section, the following persons shall be liable for all costs of removal or remedial action incurred by the State of Illinois as a result of a release or substantial threat of a release of a hazardous substance:

(1) The owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous substance;

(2) Any person who at the time of disposal, transport, storage or treatment of a hazardous substance owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous substance;

(3) Any person who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous substances owned, controlled or possessed by such person at a facility there is a release or substantial threat of a release of such hazardous substances; and

(4) Any person who accepts or accepted any hazardous substances for transport to disposal, storage or treatment facilities or sites from which there is a release or a substantial threat of a release of a hazardous substance."

2. Section 4(q) of the Act states:

"The Agency shall have the authority to provide notice to any person who may be liable pursuant to Section 22.2(f) of this Act for a release or a substantial threat of a release of a hazardous substance. Such notice shall include the identified response action and an opportunity for such person to perform the response action."

3. Section 22.2(f) of the Act states:

"If any person who is liable for a release or substantial threat of release of a hazardous substance fails without sufficient cause to provide removal or remedial action upon or in accordance with a notice and request by the agency or upon or in accordance with any order of the Board or any court, such person may be liable to the State for punitive damages in an amount at least equal to, and not more than 3 times, the amount of any costs incurred by the State of Illinois as a result of such failure to take such removal or remedial action. The punitive damage imposed by the Board shall be in addition to any costs recovered from such person pursuant to this Section and in addition to any other penalty or relief provided by this Act or any other law."

4. Section 22.18(a) of the Act states:

"Notwithstanding any other provision or rule of law, except as provided otherwise in subsection (b), the owner or operator, or both, of an underground storage tank shall be liable for all costs of preventive action, corrective action and enforcement action incurred by the State of Illinois as a result of a release or a substantial threat of release of petroleum from an underground storage tank."

5. The text of the statutes set out above is subject to change by amendment. Persons using this form may update it to reflect changes in the text of the statutes cited, but no disclosure statement shall be invalid merely because it sets forth an obsolete or superseded version of such text.

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IV. ENVIRONMENTAL INFORMATION

Regulatory Information During Current Ownership

1. Has the transferor ever conducted operations on the property which involved the generation, manufacture, processing, transportation, treatment, storage or handling of "hazardous substances", as defined by the Illinois Environmental Protection Act? This question shall not be applicable for consumer goods stored or handled by a retailer in the same form, approximate amount, concentration and manner as they are sold to consumers, provided that such retailer does not engage in any commercial mixing (other than paint mixing or tinting of consumer sized containers), finishing, refinishing, servicing, or cleaning operations on the property.

Yes X No

2. Has the transferor ever conducted operations on the property which involved the processing, storage or handling of petroleum, other than that which was associated directly with the transferor's vehicle usage?

Yes No X

3. Has the transferor ever conducted operations on the property which involved the generation, transportation, storage, treatment or disposal of "hazardous or special wastes", as defined by the federal Resource Conservation and Recovery Act and the Illinois Environmental Protection Act?

Yes X No

4. Are there any of the following specific units (operating or closed) at the property which are or were used by the transferor to manage waste, hazardous wastes, hazardous substances or petroleum?

	YES	NO		YES	NO
Landfill	<u> </u>	<u> X </u>	Injection Wells	<u> </u>	<u> X </u>
Surface Impoundment	<u> </u>	<u> X </u>	Wastewater Treatment Units	<u> </u>	<u> X </u>
Land Treatment	<u> </u>	<u> X </u>	Septic Tanks	<u> </u>	<u> X </u>
Waste Pile	<u> </u>	<u> X </u>	Transfer Stations	<u> </u>	<u> X </u>
Incinerator	<u> </u>	<u> X </u>	Waste Recycling Operations	<u> </u>	<u> X </u>
Storage Tank (Above Ground)	<u> </u>	<u> X </u>	Waste Treatment Detoxification	<u> </u>	<u> X </u>
Storage Tank (Underground)	<u> </u>	<u> X </u>	Other Land Disposal Area	<u> </u>	<u> X </u>
Container Storage Area	<u> X </u>	<u> </u>			

If there are "YES" answers to any of the above items and the transfer is other than a mortgage or collateral assignment of beneficial interest, attach a site plan which identifies the location of each unit, such site plan to be filed with the Environmental Protection Agency along with this disclosure document.

5. Has the transferor ever held any of the following in regard to this real property?

- a. Permits for discharges of wastewater to waters of the State.
- b. Permits for emissions to the atmosphere.
- c. Permits for any waste storage, waste treatment or waste disposal operation.

	YES	NO
	<u> </u>	<u> X </u>
	<u> </u>	<u> X </u>
	<u> </u>	<u> X </u>

6. Has the transferor had any wastewater discharges (other than sewage) to a publicly owned treatment works?

	<u> </u>	<u> X </u>
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7. Has the transferor taken any of the following actions relative to this property?

- a. Prepared a Chemical Safety Contingency Plan pursuant to the Illinois Chemical Safety Act.
- b. Filed an Emergency and Hazardous Chemical Inventory Form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986.
- c. Filed a Toxic Chemical Release Form pursuant to the federal Emergency Planning and Community Right-To-Know Act of 1986.

	<u> </u>	<u> X </u>
	<u> </u>	<u> X </u>
	<u> </u>	<u> X </u>

8. Has the transferor or any facility on the property or the property been the subject of any of the following State or federal governmental actions?

- a. Written notification regarding known, suspected or alleged contamination on or emanating from the property.
- b. Filing an environmental enforcement case with a court or the Pollution Control Board for which a final order or consent decree was entered.
- c. If item b. was answered by checking Yes, then indicate whether or not the final order or decree is still in effect for this property.

	<u> </u>	<u> X </u>
	<u> </u>	<u> X </u>
	<u> </u>	<u> </u>

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9. Environmental Releases During Transferor's Ownership

- a. Has any situation occurred at this site which resulted in a reportable "release" on any hazardous substances or petroleum as required under State or Federal laws? YES _____ NO X
- b. Have any hazardous substances or petroleum, which were released, come into direct contact with the ground at this site? _____ X
- c. If the answers to questions (a) and (b) are Yes, have any of the following actions or events been associated with a release on the property?
- _____ Use of a cleanup contractor to remove or treat materials including soils, pavement or other surficial materials
 - _____ Assignment of in-house maintenance staff to remove or treat materials including soils, pavement or other surficial materials
 - _____ Designation, by the IEPA or the IESDA, of the release as "significant" under the Illinois Chemical Safety Act
 - _____ Sampling and analysis of soils
 - _____ Temporary or more long-term monitoring of groundwater at or near the site
 - _____ Impaired usage of an on-site or nearby water well because of offensive characteristics of the water
 - _____ Coping with fumes from subsurface storm drains or inside basements, etc.
 - _____ Signs of substances leaching out of the ground along the base of slopes or at other low points on or immediately adjacent to the site

10. In the facility currently operating under a variance granted by the Illinois Pollution Control Board? YES _____ NO X

11. Is there any explanation needed for clarification of any of the above answers or responses? _____

IV. 1. - Facility is a conditionally exempt small quantity generator under 40 CFR Section 261.5

B. SITE INFORMATION UNDER OTHER OWNERSHIP OR OPERATION

1. Provide the following information about the previous owner or any entity or person the transferor leased the site to or otherwise contracted with for the management of the site or real property:

Name: Information not available

Type of business/ Agricultural
or property usage Vacant

2. If the transferor has knowledge, indicate whether the following existed under prior ownerships, leaseholds granted by the transferor, other contracts for management or use of the facilities or real property:

	YES	NO		YES	NO
Landfill	_____	_____	Injection Wells	_____	_____
Surface Impoundment	_____	_____	Wastewater Treatment Units	_____	_____
Land Treatment	_____	_____	Septic Tanks	_____	_____
Waste Pile	_____	_____	Transfer Stations	_____	_____
Incinerator	_____	_____	Waste Recycling Operations	_____	_____
Storage Tank (Above Ground)	_____	_____	Waste Treatment Detoxification	_____	_____
Storage Tank (Underground)	_____	_____	Other Land Disposal Area	_____	_____
Container Storage Area	_____	_____			

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V. CERTIFICATION

A. Based on my inquiry of those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true and accurate.

Edward P. Zimmer

signature Edward P. Zimmer, Vice President on behalf of John M. Smyth Company

type or print name Transferor
TRANSFEEE OR TRANSFEREES (or on behalf of ~~Transferor~~)

B. This form was delivered to me with all elements completed on See Below.

January 8 19 98

signature

type or print name

TRANSFEEE OR TRANSFEREES (or on behalf of Transferee)

C. This form was delivered to me with all elements completed on

_____ 19 _____

signature

type or print name

LENDER

TRANSFEEE

Kimco Select Chicago 694, L.L.C., a Delaware limited liability company

By: Kimco Select Chicago, L.L.C., a Delaware limited liability company, Manager

By: Kimco Select Investments, L.L.C., a New York general partnership, Manager

By: The David Samber Company, L.L.C., a New York limited liability company, General Partner

By: _____

Name: David M. Samber

Title: Managing Member

(Ch. 30, par. 906)

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Schaumburg, Illinois

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THAT PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF WOODFIELD ROAD AS DEDICATED PER DOCUMENT 20944554 WITH THE EAST LINE OF SAID WEST 1/2 OF THE SOUTHEAST 1/4; THENCE SOUTH 0 DEGREES 33 MINUTES 31.5 SECONDS WEST ALONG SAID EAST LINE 700 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 28.5 SECONDS WEST 450 FEET ALONG A LINE DRAWN PERPENDICULARLY TO SAID EAST LINE; THENCE NORTH 0 DEGREES 33 MINUTES 31.5 SECONDS EAST 694.283 FEET ALONG A LINE PARALLEL WITH SAID EAST LINE TO A POINT IN SAID SOUTH LINE OF WOODFIELD ROAD. THENCE EASTERLY 445.846 FEET ALONG SAID SOUTH LINE OF WOODFIELD ROAD BEING THE ARC OF A CIRCLE OF 1859.86 FEET RADIUS CONVEX TO THE NORTH WHOSE CHORD BEARS NORTH 89 DEGREES 45 MINUTES 1 SECOND EAST TO A POINT OF TANGENCY, THENCE SOUTH 83 DEGREES 22 MINUTES 56 SECONDS EAST 5.294 FEET ALONG SAID SOUTH LINE OF WOODFIELD ROAD TO HEREIN DESIGNATED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY AGREEMENT RECORDED JULY 1, 1971 AS DOCUMENT 21532098 MADE BY LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 1, 1971 AND KNOWN AS TRUST NUMBER 42050 TO LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 25, 1964 AND KNOWN AS TRUST NUMBER 33071 OVER THE WEST 20 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

A STRIP OF LAND 40 FEET WIDE IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF WOODFIELD ROAD PER DOCUMENT 20944554 AND NORTH OF A LINE DRAWN PERPENDICULARLY TO THE EAST LINE OF SAID WEST 1/2 OF THE SOUTHEAST 1/4, SAID LINE BEING 700 FEET (AS MEASURED ALONG SAID EAST LINE); THE CENTER LINE OF SAID STRIP OF LAND BEING A LINE 450 FEET (MEASURED PERPENDICULARLY) WEST OF AND PARALLEL WITH SAID EAST LINE, (EXCEPT THE SOUTH 105.89 FEET THEREOF), IN COOK COUNTY, ILLINOIS.

