

SML6238.v2
01/28/99
MER



**ASSIGNMENT
OF
LEASES AND RENTS**

THIS ASSIGNMENT is made as of the 28th day of January, 1999

ASSIGNOR: MER KEDZIE, LLC, an Illinois limited liability company ("Assignor").
ASSIGNEE: BANK ONE, ILLINOIS, NA, a national banking association ("Assignee").

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ARTICLE 1

RECITALS

1.1 Assignor is the owner of real property located in Chicago, Cook County, Illinois and more fully described in Exhibit "A" to this Assignment (the "Property").

1.2 Assignee has agreed to loan to Assignor, and Assignor has agreed to borrower from Assignee, the sum of up to \$4,200,000.00 (the "Loan") for the purposes and pursuant to the obligations, terms and conditions stated in the Construction Loan Agreement of even date herewith by and between Assignor and Assignee (the "Loan Agreement").

**PREPARED BY AND AFTER
RECORDING RETURN TO:**

Scott M. Lapins
Miller, Shakman, Hamilton
Kurtzon & Schlifke
208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604

TAX IDENTIFICATION NUMBER:

See Exhibit "A"

ADDRESS OF PROPERTY:

Southeast Corner of Irving
Park Road and Kedzie Avenue
Chicago, Illinois

BOX 333-CTI

01205
57520 8096677

1.3 The Loan is evidenced by a Promissory Note of even date in the stated principal amount of \$4,200,000.00 (the "Note"), and secured by a Construction Mortgage and Security Agreement with Assignment of Rents of even date (the "Mortgage") covering the Property, and a Security Agreement of even date (the "Security Agreement") covering the personal property described therein.

1.4 This Assignment by Assignor to Assignee is given to further secure Assignor's obligations to Assignee under the Note, the Mortgage and the Security Agreement.

1.5 The purpose of the Loan is to provide financing for the acquisition of the Property and the construction of a 14,725 square foot building with 45 parking spaces.

ARTICLE 2

DEFINITIONS

The following terms shall have the following meanings herein, unless the context or use requires a different meaning, and such definitions shall be read in the singular or plural as the context requires.

2.1 Lease or Leases: All of the leases, tenancies, licenses, and other agreements, written or otherwise, including the Walgreens Lease, including all amendments, modifications, extensions, additions, renewals and replacements thereof, granting possession, use, or occupancy of the Property, or a portion thereof, to another, whether now existing or hereafter entered into, notwithstanding the fact that said agreements are not specifically identified herein.

2.2 Rent or Rents: All the rental income, revenues, issues, proceeds, profits, damages, awards, and payments now or hereafter due under the Leases. Without limiting the generality of the foregoing, Rents shall include all minimum rent, additional rent, percentage rent, deficiency rent, security deposits (subject to the lessees' rights thereto), liquidated damages, reimbursements, and payments and awards for damages.

2.3 Indebtedness: All or any part of outstanding and unpaid debt of Assignor to Assignee as evidenced by the Note, or that may otherwise be due from Assignor to Assignee under the terms of the Mortgage, Security Agreement, Loan Agreement or this Assignment.

2.4 Event of Default: A default under Section 6.20 hereof or an Event of Default as defined in the Loan Agreement, Note, Mortgage or Security Agreement.

2.5 Property: As previously defined, includes all improvements, buildings, structures, fixtures, amenities, and personal property owned by Assignor, now or hereafter acquired, and now or hereafter located on the land (the "Land") described on Exhibit "A" and used or intended to be used exclusively in connection with the use, occupation, or development thereof, and also all easements, rights of way, and appurtenances, now or hereafter existing, acquired in connection with the Land.

2.6 Note, Mortgage, Loan Agreement and Security Agreement: As previously defined, includes all subsequent amendments, modifications, extensions, additions, renewals and replacements thereof.

2.7 Walgreens Lease:

ARTICLE 3

ASSIGNMENT

3.1 For purposes of giving additional continuing security for repayment of the Indebtedness, Assignor hereby assigns to Assignee all of its rights, title and interest in and to the Leases and Rents. This Assignment is a present assignment, effective immediately upon the execution and delivery hereof by Assignor and shall continue in effect until the Indebtedness is finally and irrevocably paid in full. However, so long as no Event of Default shall exist under the Note, the Mortgage, Loan Agreement, the Security Agreement or this Assignment, Assignee waives its right to collect the Rent and hereby gives Assignor permission to collect, use, distribute, apply and enjoy the same. In consideration for the granting of said permission, Assignor agrees to use all Rents collected for purposes of making payments then due on the Indebtedness, for paying all taxes and other charges then due that if not paid would become a lien against the Property, for paying all premiums on insurance policies covering the Property as they become due, and for satisfaction of all its obligations then due under the Leases, before using the same for any other purpose. This permission given Assignor to collect the Rents may be revoked by Assignee at any time, in its complete discretion, upon the occurrence of an Event of Default.

ARTICLE 4

WARRANTIES

Assignor represents, warrants and covenants as of the date hereof, and except as set forth below, so long as the Indebtedness remains unpaid shall be deemed to continuously represent, warrant and covenant that:

4.1 Legal Right and Authority: Assignor has full legal right and authority to execute and deliver this Assignment to Assignee.

4.2 Sole Owner: Assignor is the sole owner of all the landlord's interest in the Leases.

4.3 Valid and Enforceable Leases: Any Leases currently in effect are valid under existing law and fully enforceable against the parties thereto.

4.4 Advance Rent: No Rent has been collected in advance of the time due, except for customary security deposits or one month's rent.

4.5 Defaults: To the best of Assignor's knowledge and belief, Assignor is not in material default under any Lease, nor is Assignor aware of any information that a tenant intends to notify Assignor that Assignor is in material default under a Lease, except as has been previously disclosed to Assignee in writing.

4.6 Undisclosed Leases: As of the date hereof only, Assignor has not entered into any lease for all or any part of the Property.

4.7 Assignment: Assignor has not previously assigned all or any part of the Leases or Rents, nor any right, title or interest therein.

4.8 Execution and Delivery: The Note, Mortgage and Security Agreement have been duly executed and delivered by Assignor to Assignee.

ARTICLE 5

COVENANTS OF ASSIGNOR

5.1 Attorney-in-Fact: Upon the occurrence of an Event of Default, Assignee is hereby appointed attorney-in-fact of Assignor with full power of substitution and with full power and authority

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to act in the name of Assignor with respect to the subject matter of this Assignment, including without limitation:

(a) Demand, recover and receive the Rents, or any part thereof, from any person whomsoever;

(b) Maintain any and all actions or proceedings to recover the Rents, enforce the Leases, or to remove tenants or occupants from the Property;

(c) Perform such acts as may be required of Assignor by all Leases, any other tenancy of the Property, any other agreement affecting the Property, or any part thereof and this Assignment;

(d) Lease the Property, or any part thereof, which is now or may become vacant, for such periods as Assignee may deem proper;

(e) Perform such acts and execute and/or deliver all papers, leases, licenses, franchises and agreements that may be required in any action or proceeding affecting the Property, and in managing and operating the Property;

(f) Pay out of the Rents all sums deemed necessary by Assignee for general improvements, tenant improvements, protection, operation, business expense, leasing, managing (whether by retained agent or otherwise), or preservation of the Property, including, without limitation, payment of taxes, assessments, management fees, leasing commissions, utilities, liens, and insurance premiums, and all security, maintenance, and repair charges. If the Rents are not sufficient to cover such payments, together with sums due on the Indebtedness, Assignor will promptly reimburse Assignee to the extent thereof, together with interest thereon at the Default Interest Rate as defined in the Mortgage. The obligation by Assignor to pay such sums to Assignee shall be secured hereby. Nothing contained herein shall in any way obligate Assignee to pay any item listed in this subparagraph (f), to act in any manner on behalf of Assignor, or to relieve Assignor from its duty to perform according to the provisions of the Leases. This Assignment confers upon Assignee a power coupled with an interest and shall be irrevocable so long as the Indebtedness remains unpaid.

5.2 Duties and Obligations: Assignor will duly perform all the material duties and comply with all the material obligations, terms and conditions, required of it by the Leases.

5.3 Assignment and Prepayment: Assignor will not, without Assignee's written consent, otherwise assign the Leases or the Rents, nor any part thereof, nor accept prepayments or installments

of same before they become due, except that Assignor may accept security deposits and one month's Rent, in advance, from tenants.

5.4 Additional Acts: Assignor will perform all necessary further acts to authorize payment of the Rents to Assignee following an Event of Default, and will execute and deliver to Assignee any and all further instruments and perform all further acts reasonably requested by Assignee to effectuate the purposes of this Assignment.

5.5 Irrevocable Consent: Assignor irrevocably consents that any tenant, occupant, or other person in possession or occupancy of all or any part of the Property may completely rely upon Assignee's notice of Assignor's default hereunder and the right of Assignee to exercise its rights granted hereby without requirement on the part of such person to independently determine the actual existence of such default.

5.6 Notice. Assignor shall promptly give Assignee written notice of a material default or an alleged material default by Assignor under any Lease, and, in any event, shall use its best efforts to give such notice in sufficient time to enable Assignee to cure the same prior to the tenant thereof having a right to terminate by reason of such default. Any new Lease shall contain a provision requiring the tenant thereunder to notify Assignee of any default by the landlord thereunder and granting Assignee an opportunity for a reasonable time after such notice to cure such default prior to any right accruing to the tenant to terminate such lease; provided, nothing herein shall be deemed to impose upon Assignee any obligation to cure said default, nor any liability for not taking action to cure the same.

5.7 Modification: Assignor agrees not to enter into any Lease except in compliance with the Loan Agreement. Assignor further agrees not to terminate, nor give or effect any material waiver or concession thereunder, nor cancel or release any guarantor thereon, in whole or part, nor allow such Lease to be merged with any other interest, nor accept the surrender of such Lease, or any of the Property covered thereby, without the prior written consent of Assignee. Assignor shall not alter, modify, add to or amend any Lease without the prior written consent of Assignee.

5.8 Surrender of Possession: Upon the occurrence of an Event of Default, upon demand, Assignor shall surrender possession of the Property to Assignee. Upon entry, Assignee may exercise all or any of the rights and powers granted it hereby, but no such entry by or on behalf of Assignee shall be deemed to constitute Assignee a "mortgagee in possession". If Assignor remains in possession of the Property after such Event of Default and after Assignee's demand for possession, its possession shall be as a tenant of Assignee; and Assignor agrees to pay to Assignee, in advance upon

demand, a reasonable monthly rental for the Property or part thereof so occupied. This covenant shall, at the option of Assignee, become operative immediately upon the occurrence of an Event of Default, regardless of whether foreclosure proceedings have been instituted or application has been made for the appointment of a receiver.

5.9 Copies: Within 5 days of Assignor's receipt of duly executed and delivered copies of any Leases, Assignor shall deliver true and complete copies of same to Assignee, and shall also within 5 days of receipt of same, deliver true and complete copies of all executed amendments, renewals, replacements, modifications, additions, and extensions of any Lease. Assignor shall also deliver to Assignee, within 5 days of receipt of same, true and complete copies of all notices received from a tenant or occupant of the Property that may materially, adversely affect a Lease.

5.10 Management and Enforcement: Assignor agrees to manage the Property or cause the Property to be managed in accordance with sound business practices, to diligently enforce the material provisions of the Leases and the obligations of any guarantor thereon, to do or cause to be done all of the landlord's material obligations thereunder, to do or cause to be done any specific action reasonably required by Assignee with respect thereto in furtherance of this Assignment, and not to intentionally do nor cause to be done anything to materially impair the value of the Leases, or the Property, as security for the Indebtedness.

ARTICLE 6

MISCELLANEOUS

6.1 Claims Under Lease: Following an Event of Default, Assignee shall be deemed to be the creditor of all tenants under the Leases with respect to all of Assignor's claims against such tenants for damages, and under the Leases; and Assignee shall have the right (but not the obligation) if an Event of Default hereunder exists to file said damage claim or claims under the Leases in all actions or proceedings involving or affecting such tenants, including, without limitation, actions or proceedings involving an assignment for the benefit of creditors, bankruptcy, reorganization, insolvency, dissolution and receivership. Assignor hereby collaterally assigns to Assignee all such claims for damages and claims under the Leases, and all money received as a result thereof. Assignor hereby irrevocably appoints Assignee its attorney-in-fact following an Event of Default, with full power of substitution, and with full power to make and file such claims, to appear in any such action or proceedings, and to collect all money resulting therefrom or awarded therein.

6.2 Assignee's Obligation: Notwithstanding any legal presumption or implication to the contrary, Assignee shall not be obligated by reason of its acceptance of this Assignment, nor by the collection of any Rent, to perform any obligation of Assignor as landlord under the Leases, nor shall Assignee be responsible for any act committed by Assignor, or any breach or failure to perform by Assignor with respect to a Lease; and Assignor hereby agrees to indemnify Assignee and save it harmless from and against all losses, liabilities, damages and expenses, including reasonable attorneys' fees, resulting from all claims made against Assignee which arise out of, from or in connection with the Leases, or this Assignment, except if caused by Assignee's acts or omissions. However, Assignee may following an Event of Default, at its sole option, and without further releasing Assignor from any obligation hereunder, or under the Leases, discharge any obligation which Assignor fails to discharge, including, without limitation, defending any legal action; and Assignor agrees to immediately pay, upon demand, all sums expended by Assignee in connection therewith, including Assignee's costs and expenses, including reasonable attorneys' fees, together with interest thereon at the rate provided for in the Note; and the amount of same shall be added to the Indebtedness. Neither the acceptance of this Assignment, nor the collection of Rent or other sums due or to become due under the Leases, shall constitute a waiver of any right of Assignee under the Note, Mortgage, or any other document or instrument pledging or granting a security instrument in property to secure payment of the Note and the performance of Assignor's obligations thereunder and under the Mortgage.

6.3 Notice of Default. Assignor hereby authorizes Assignee to give written notice of this Assignment at any time to the tenants under the Leases. All tenants are authorized and directed to pay rent directly to Assignee upon receipt from Assignee of a statement that Assignor is in default hereunder, or under the Note or Mortgage beyond all applicable cure periods, accompanied by a demand for such payment, without any further proof of Assignor's Event of Default.

6.4 Assignee's Liability. Assignee's obligation as to any Rent actually collected shall be discharged by application of such Rent for the purposes described in this Assignment. Assignee shall not be liable for uncollected Rents, nor for any claim for damages or setoff, arising out of Assignee's management of the Property, other than for damages arising from Assignee's gross negligence. Assignee shall not be liable to any tenant for the return of any security deposit made under a Lease, unless Assignee shall actually have received such security deposit from Assignor or such tenant.

6.5 Waiver. The failure on the part of Assignee to exercise any right hereunder shall not operate as a waiver thereof. The waiver of any provision herein by Assignee, or the consent to any departure from any such provision, including, without limitation,

the exercise, from time to time, of any right hereunder by Assignee after the occurrence of an Event of Default and the waiver or curing of same, shall not be deemed a waiver of that or any other right at that time, nor a waiver of that or any other right subsequent thereto, but shall be applicable only in the specific instance or for the purpose for which such waiver or consent was given.

6.6 Receiver in Foreclosure. In the event that a receiver shall be appointed in a foreclosure action on the Mortgage, the rights and powers granted Assignee hereby shall inure to the benefit of such receiver; and shall be construed to be in addition to all rights and powers given receivers under the law of the jurisdiction where the Property is located.

6.7 Taking of Possession and Collection. The taking of possession and collection of Rent by Assignee pursuant hereto shall not be construed to be an affirmation of any Lease, and Assignee, or a purchaser at any foreclosure sale of the Property may, if otherwise entitled to do so, exercise the right to terminate any Lease as though such taking of possession and collection of Rent had not occurred.

6.8 Extension on Indebtedness. If, at any time or times, the time of payment of the Indebtedness, or any part thereof, is extended, if the Note is renewed, extended, modified or replaced, or if any security for the Note is released, Assignor and all other persons now or hereafter liable on the Indebtedness, or interested in the Property, shall be deemed to have consented to such extension, renewal, modification, replacement, or release, and their liability thereon, the lien hereof, and the rights created hereby shall continue in full force and effect.

6.9 Severability. If any obligation, term, or condition of this Assignment is deemed illegal or unenforceable, all other obligations, terms, and conditions, and the application thereof to all persons and circumstances subject hereto, shall remain unaffected to the extent permitted by law; and if application of any obligation, term, or condition to any person or circumstance is deemed illegal or unenforceable, the application of such obligation, term or condition to any other person or circumstance shall remain unaffected to the extent permitted by law.

6.10 Recording Information. Assignee is authorized to insert in executed copies of this Assignment and in any Uniform Commercial Code financing statement executed in connection herewith or with the Indebtedness, dates, Recorder's File and Instrument Numbers, and other recording information omitted therefrom, notwithstanding the fact that the same may not become available until after the date of the execution of this Assignment; and the Recorder of the County in which the Property is located is authorized to enter a

reference to the execution, existence and filing of this Assignment upon its records.

6.11 Subordination. Assignee may consent to the subordination of the Leases to its Mortgage and this Assignment without any further consent being necessary or required on the part of Assignor.

6.12 Assignability. This Assignment shall be binding upon Assignor and its successors and assigns, including any subsequent owner of the Property, and shall inure to the benefit of Assignee and its successors and assigns, including any assignee of the Note, Security Agreement and Mortgage. In furtherance and not in limitation of the foregoing, Assignee, as the holder of the Mortgage, shall have the right to assign all of Assignee's right, title and interest in and to the Leases to any subsequent holder of the Mortgage, and also to assign the same to any person acquiring title to the Property through foreclosure or otherwise.

6.13 Headings. Captions and titles used in this Assignment have been inserted for convenience only, and shall not be deemed or construed to have any effect upon the scope or meaning of any of the terms, obligations, or conditions of this Assignment.

6.14 Validity. The Affidavit, certificate, letter or statement of any officer, agent or attorney of Assignee showing that any part of the Indebtedness remains unpaid shall be conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person may and is hereby authorized to rely thereon. Assignor hereby authorizes and directs any tenant, occupant or user of the Property, or any part thereof, upon receipt from Assignee of written notice to the effect that Assignee is then the holder of the Note and that an Event of Default exists thereunder, or under the Mortgage, to perform this Assignment in accordance with the terms hereof for the benefit of Assignee.

6.15 Discharge. This Assignment is given for the purpose of securing Assignor's performance of all its obligations under the Note, Loan Agreement, Security Agreement, and Mortgage; and accordingly, upon payment in full of the Indebtedness and the discharge of all Assignor's other obligations under the Note, Loan Agreement, Security Agreement, and Mortgage, as evidenced by the recording of an instrument formally satisfying the Mortgage without the consequent recording of another mortgage covering the Property in favor of Assignee, this Assignment shall automatically become null and void.

6.16 Third Party Reliance. Any third party may rely upon this Assignment upon presentation to them of a copy or facsimile thereof, certified to be an exact, complete, and true copy by an attorney duly admitted to practice law in the jurisdiction where

the Property is located; and no revocation or termination hereof, by operation of law or otherwise, shall be effective as to such third party, and such third party may rely fully and completely hereon, unless and until written notice of such revocation or termination is actually received by such third party from Assignee.

6.17 Waiver by Assignee. This Assignment may not be waived, modified, altered, or amended in any manner or form, except by an agreement, in writing, executed by a duly authorized officer of Assignee, and a member of Assignor which writing shall make specific reference to this Assignment.

6.18 Gender and Number. Relative words and any reference to Assignor and Assignee shall be read in the singular or plural when appropriate, and words of masculine or neuter import shall be read as if written in the masculine, feminine, or neuter when appropriate. If more than one party joins in the execution hereof, the covenants and agreements contained herein shall be the joint and several obligation of each of them.

6.19 Notices. All notices or other communications required or permitted hereunder shall be (a) in writing and shall be deemed to be given when either (i) delivered in person, (ii) three business days after deposit in a regularly maintained receptacle of the United States mail as registered or certified mail, postage prepaid, return receipt requested, (iii) when received if sent by private courier service, or (iv) on the day on which the party to whom such notice is addressed refuses delivery by mail or by private courier service, and (b) addressed as follows:

To Assignee: Bank One, Illinois, NA
Commercial Real Estate
200 South Wacker
5th Floor
Chicago, Illinois 60606-5802
Attention: Thomas F. Forzak, Jr.
Assistant Vice President

With copy to: Miller, Shakman, Hamilton, Kurtzon
& Schlifke
208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604
Attention: Scott M. Lapins

To Assignor: c/o Monte C. Strusiner
401 Huehl Road
Suite 1-A
Northbrook, Illinois 60062

With copy to: Law Offices of Joel S. Kasanov
401 Huehl Road
Suite 1A
Northbrook, Illinois 60062
Attention: Joel S. Kasanov

or to each such party at such other addresses as such party may designate in a written notice to the other parties.

6.20 Defaults. Failure of the Assignor to make any payment due hereunder within five (5) days of the date when due or to cure any other default hereunder within thirty (30) days of written notice thereof (or as to any other default that cannot be cured within said 30 day period, and within additional period not to exceed thirty (30) days provided Assignor promptly commences and thereafter diligently proceeds to cure such default) shall constitute an Event of Default hereunder.

6.21 No Extension of Indebtedness. Nothing contained in this Assignment shall operate as or be deemed to be an extension of time for payment of the Indebtedness, or in any way affect any of Assignee's rights, powers or remedies to enforce payment of the Indebtedness, or any part thereof.

6.22 Cumulative Remedies and Rights. All rights and remedies of Assignee hereunder are cumulative.

6.23 Jury Waiver: THE UNDERSIGNED AND ASSIGNEE (BY ITS ACCEPTANCE HEREOF) HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN OR AMONG THE UNDERSIGNED AND ASSIGNEE ARISING OUT OF OR IN ANY WAY RELATED TO THIS DOCUMENT OR ANY OTHER RELATED DOCUMENT, OR ANY RELATIONSHIP BETWEEN ASSIGNEE AND THE UNDERSIGNED. THIS PROVISION IS A MATERIAL INDUCEMENT TO ASSIGNEE TO PROVIDE THE FINANCING DESCRIBED HEREIN OR IN THE OTHER RELATED DOCUMENTS.

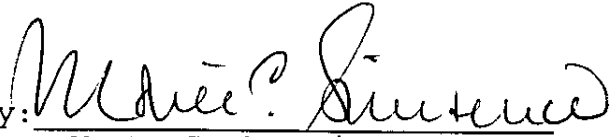
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IN WITNESS WHEREOF, Assignor has executed this Assignment the day and year first set forth above.

ASSIGNOR:

MER KEDZIE, LLC, an Illinois limited liability company

By: 

Monte C. Strusiner

Its: Manager

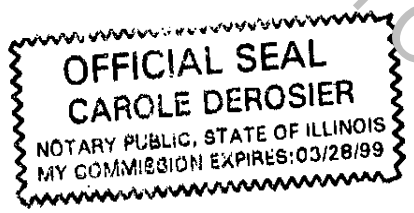
Property of Cook County Clerk's Office

STATE OF ILLINOIS)
COUNTY OF DeKalb) SS.

I HEREBY CERTIFY that on this 3rd day of February, 1999, before me personally appeared MONTE C. STRUSINER, the manager of MER KEDZIE, LLC, an Illinois limited liability company under the laws of the State of Illinois, to me known to be the same person who signed the foregoing instrument as his free act and deed as such Manager and as the free act and deed of said limited liability company for the use and purpose therein mentioned, and that the said instrument is the act and deed of said limited liability company.

WITNESS my signature and official seal at Northbrook in the County of Cook and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)



Carole DeRosier
Notary Public

My Commission Expires: 3/28/99

PROPERTY OF COOK COUNTY CLERK'S OFFICE

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EXHIBIT "A"

LEGAL DESCRIPTION

LOTS 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12 AND 13 IN BLOCK 1 IN WILLIAM E. HATTERMAN'S IRVING PARK BOULEVARD SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN NOS.: 13-24-100-006;
13-24-100-007;
13-24-100-008;
13-24-100-009.

Property of Cook County Clerk's Office