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Cook County Recorder 45.50



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This Document Prepared  
by and mail to:

Charles E. Alexander  
Katz Randall & Weinberg  
333 West Wacker Drive  
Suite 1800  
Chicago, Illinois 60606  
KRW File No. 06783.00500

MORTGAGE

THIS MORTGAGE is made as of the 25th day of March, 1999, between James Nashan and Karen Ann Nashan (hereinafter collectively referred to as the "Mortgagors") and Henry Silverman (hereinafter referred to as "Lender").

WITNESSETH

WHEREAS, Chicago Export Packing Company, Inc. (hereinafter referred to as the "Borrower") is justly indebted to Lender in the principal sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00) DOLLARS, as evidenced by that Note of Borrower dated of even date herewith, made payable to Lender, providing for mandatory payments of principal and interest until said Note is fully paid, with a final payment of the balance of all principal and interest due thereunder, if not sooner paid due and payable on the 25th day of March, 2014; and

WHEREAS, the Mortgagors have a financial interest in the Borrowers and will benefit from the making of the loan.

To secure the payment of the principal sum of money evidenced by the Note, with interest thereon as provided therein, and the

payment of all other sums advanced to protect the security of this Mortgage, with interest thereon, and the performance by Mortgagors of all of the covenants and conditions contained herein and in said Note and all other sums due and owing by Mortgagors to Lender and in further consideration of ten dollars (\$10.00) in hand paid, the receipt of which is acknowledged, the Mortgagors does hereby by these presents, GRANT, MORTGAGE AND CONVEY to Lender, its successors and assigns the following described real estate and all of its estate, right, title and interest therein, situated, lying and being in the Village of Park Ridge, County of Cook and State of Illinois, legally described on Exhibit "A" attached hereto and by this reference incorporated herein, together with all improvements, tenements, easements, hereditaments and appurtenances thereunto belonging and all rents, issues and profits thereof and all insurance proceeds relating thereto for so long and during all such times as the Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all the structures, buildings, additions and improvements, and replacements thereof, erected upon said realty, including any on-site energy systems providing power, electricity, heating, air conditioning, refrigeration, lighting, ventilation, water, and all plants, equipment, apparatus, machinery and fixtures of every kind and nature whatsoever forming part of said structures or buildings or of any structures or buildings heretofore or hereafter standing on the realty or on any part thereof or now or hereafter used in connection with the use and enjoyment of said realty, whether or not physically attached thereto, and together with all of Borrower's rights further to encumber said property for debt except by such encumbrance, which, by its actual terms and specifically expressed intent, shall be, and at all times remain, subject and subordinate to the lien of this Mortgage. All of the above-mentioned and described real estate, property and rights are hereinafter referred to as "Property".

TO HAVE AND TO HOLD the Property unto the said Lender, its successors and assigns forever, for the purposes and uses therein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Obligations Relating to Property. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or be destroyed; (b) keep said Property in good condition and repair, without waste and free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the Property superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Lender; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said Property; (e) comply with all requirements of law,

municipal ordinances, or restrictions of record with respect to the Property and the use thereof; (f) make no material alterations to said Property except as required by law or municipal ordinance; (g) not use or suffer or permit use of the Property for any purpose other than that for which the same is now used; (h) not initiate or acquiesce in any zoning reclassification without Lender's written consent; (i) pay each item of indebtedness secured by this Mortgage when due according to the terms hereof or of the Note; and (j) pay all filing, registration, recording and search and information fees, and all expenses incident to the execution and acknowledgement of this Mortgage and all other documents securing the indebtedness secured hereby and all federal, state, county and municipal taxes, other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing, recording or registration of the indebtedness secured hereby, this Mortgage and all other documents securing the indebtedness secured hereby and all assignments thereof.

2. Taxes. Mortgagors shall pay before any penalty attaches all general taxes, special taxes, special assessments, water charges, sewer service charges and other charges against the Property when due, and shall, upon written request, furnish to Lender duplicate receipts therefor. To prevent default hereunder Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest. In the event, as owner of the Property, Mortgagors shall be entitled to the benefits of membership in any homeowner's association, or similar organization affording recreational or other facilities for the use of Mortgagors and other property owners or occupants in the vicinity of the Property, or to the use, in common with others, of any such facilities located beyond the Property by any arrangement whereby the cost of such facilities is to be shared by the users thereof, Mortgagors agree to become a member of such association (incorporated or unincorporated) and to perform all obligations of membership, including the payment of any and all dues, assessments, service fees or other obligations incurred, to maintain such membership. The terms "assessments," as used in Paragraph 3 hereof, shall be deemed to include all payments so required.

3. Deposits. Upon notice from Lender, Mortgagors covenant and agree to deposit at such place as Lender may from time to time in writing appoint, and in the absence of such appointment, then at the office of Lender in Chicago, Illinois, on each principal and interest installment payment date, until the indebtedness secured by this Mortgage is fully paid, a sum equal to one-twelfth of the last total annual taxes and assessments for the last ascertainable year (general and special) on said Property (unless said taxes are based upon assessments which exclude the improvements or any part thereof now constructed, or to be constructed, in which event the amount of such deposits shall be based upon the Borrowers' reasonable estimate as to the amount of taxes and assessments to be

levied and assessed), as well as one-twelfth of the annual premiums for the insurance policies required by Paragraph 5 hereof. Mortgagors, concurrently with the disbursement of the loan, will also deposit with Lender an amount, based upon the taxes and assessments so ascertainable or so estimated by Lender, as the case may be, for taxes and assessments on said Property, on an accrual basis, for the period from January 1, succeeding the year for which all taxes and assessments have been paid, to and including the date of the first deposit in this Paragraph hereinabove mentioned. Such deposits need not be kept separate and apart by Lender and are to be held without any allowance of interest and are to be used for the payment of taxes and assessments (general and special) on said Property next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general and special) for any year when the same shall become due and payable, the Mortgagors shall within ten (10) days after receipt of demand therefor, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess shall, at the option of Lender, be applied on a subsequent tax payment. Lender as additional security for the indebtedness secured hereby is hereby granted a security interest pursuant to the Uniform Commercial Code in effect in the State of Illinois in all such deposits.

4. Application of Funds Upon Default. In the event of a default in any of the provisions contained in this Mortgage or in the Note secured hereby, Lender may at its option, without being required to do so, apply any monies at the time on deposit pursuant to Paragraph 3 hereof, on any of Mortgagors' obligations herein or in the Note contained in such order and manner as Lender may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagors and shall be applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagors; provided, however, that Lender shall not be liable for any failure to apply to the payment of taxes and assessments any amount so deposited unless Mortgagors; while not in default hereunder, shall have requested said depository in writing to make application of such funds to the payment of the particular taxes or assessments for payment of which they were deposited, accompanied by bills for such taxes and assessments.

5. Insurance. Mortgagors shall keep all buildings and improvements now or hereafter situated on said Property insured against loss or damage by fire and such other hazards as may reasonably be required by Lender, including without limitation on the generality of the foregoing, war damage insurance whenever in the opinion of Lender such protection is necessary. Mortgagors shall also provide liability insurance with such limits for personal injury and death and property damage as Lender may

require. All policies of insurance to be furnished hereunder shall be in forms, companies and amounts satisfactory to Lender, with mortgage clauses attached to all policies in favor of and in form satisfactory to Lender, including a provision requiring the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to Lender. Mortgagors shall deliver all policies, including additional and renewal policies, to Lender, and, in the case of insurance about to expire, shall deliver renewal policies not less than ten (10) days prior to their respective dates of expiration.

6. Damage to Property. In case of loss, Lender (or after entry of decree of foreclosure, the purchaser at the sale or the decree creditor, as the case may be) is hereby authorized either (a) to settle and adjust any claim under such insurance policies without consent of Mortgagors, or (b) to allow Mortgagors to agree with the insurance company or companies on the amount to be paid upon the loss. In either case Lender is authorized to collect and receipt for any such insurance money. The insurance proceeds may be applied to restoration or repair of the Property damaged provided such restoration or repair is economically feasible. The determination of economic feasibility shall be made solely by Lender. If such restoration or repair is not economically feasible, or if any event of default of Mortgagors has occurred hereunder, the insurance proceeds shall, in either such event be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagors. If the Property is abandoned by Mortgagors or if Mortgagors fail to respond to Lender within fifteen (15) days after notice by Lender to Mortgagors 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.

7. Prepayment. At such time as the Mortgagors is not in default either under the terms of the Note secured hereby or under the terms of this Mortgage, the Mortgagors shall have the privilege of making prepayments on the principal of said Note (in addition to the required payments) in accordance with the terms and conditions, if any, set forth in said Note.

8. Variation. If the payment of the indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said Property, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Lender, notwithstanding such extension, variation or release.

9. Rights of Lender. In case of default herein, Lender may, but need not, make any payment or perform any act herein required of Mortgagors 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 other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said 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 attorneys' fees, and any other monies advanced by Lender to protect the Property 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 from the date of the disbursement at the rate stated in the Note; provided that the aggregate amount of the indebtedness secured hereby together with all such additional sums advances shall not exceed two hundred (200%) percent of the amount of the original indebtedness secured hereby. Inaction of Lender shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagors.

10. Duties When Paying Property Obligations. Lender in making any payment hereby authorized: (a) relating to taxes and assessments or insurance premiums, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

11. Default. If (a) default be made in the due and punctual payment of the Note, or any installment due in accordance with the terms hereof, either of principal or interest or in any payment required to be made under the terms of said Note or this Mortgage; or (b) a petition shall be filed by or against the Mortgagors in voluntary or involuntary bankruptcy or under Chapters 11, 12 or 13 of the Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing; or (c) the Mortgagors shall be adjudicated a bankrupt, or a trustee or a receiver shall be appointed for the Mortgagors or for all Mortgagors' property or the major part thereof in any proceeding, or any court shall have taken jurisdiction of the property of the Mortgagors or the major part thereof in any proceeding for the arrangement, liquidation or winding up of the affairs of the Mortgagors; or (d) the Mortgages shall make an assignment for the benefit of creditors, or shall admit in writing inability to pay Mortgagors' debts generally as they become due; or (e) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinbefore or hereinafter contained, required to be kept or performed or observed by the Mortgagors and the same shall

continue for five (5) days, then and in every such case the whole of said principal sum hereby secured shall, at once, at the option of Lender become immediately due and payable, together with accrued interest thereon, without notice to Mortgagors.

12. Foreclosure. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorneys' fees, appraisers' fees, outlays 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) for procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and similar data and assurances with respect to title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Property.

All expenditures and expenses of the nature in this Paragraph mentioned, and such expenses and fees as may be incurred in the protection of said Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceeding affecting this Mortgage, the Note or said Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagors, with interest from the date of disbursement at the rate stated in the Note and shall be secured by this Mortgage.

The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note secured hereby; fourth, any overplus to Mortgagors, its heirs, legal representatives or assigns, as its rights may appear.

13. Assignment of Rents. As additional security hereunder, Mortgagors hereby assigns to Lender the rents of the Property, provided that Mortgagors shall, prior to acceleration under Paragraph 11 hereof or abandonment of the Property, has the right to collect and retain such rents as they become due and payable.

Upon acceleration under Paragraph 11 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, by 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 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 attorney's fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

14. Inspection. Lender shall have the right to inspect the Property at all reasonable times and access thereto shall be permitted for that purpose.

15. Condemnation. Mortgagors hereby assigns, transfers and sets over unto Lender the entire proceeds of any award or any claim for damages for any of the mortgaged Property taken or damaged under the power of eminent domain or by condemnation. Lender may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not, or to require Mortgagors to restore or rebuild. Any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall, at the option of Lender, be applied on account of the indebtedness secured hereby or be paid to any other party entitled thereto. If the Property is abandoned by Mortgagors or if after notice by Lender to Mortgagors that the condemnor offers to make an award or settle a claim for damages, Mortgagors fails to respond to Lender within five (5) days of the date of such notice, 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.

16. Release. Lender shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Lender for the execution of such release.

17. Notices. All notices or other communications required or permitted hereunder shall be (a) in writing and shall be deemed given when either (i) delivered in person, (ii) three (3) days after deposit in a regularly maintained receptacle of the United States mail as registered or certified mail, postage prepaid, (iii) when received if sent by private courier service, or (iv) on the day on which the addressee refuses delivery by mail or by private courier service, and (b) addressed as follows:

To Lender: Mr. Henry Silverman  
6739 Minnehaha  
Lincolnwood, Illinois 60646



With copy to: Katz Randall & Weinberg  
333 West Wacker Drive  
Suite 1800  
Chicago, Illinois 60606  
Attn: Charles E. Alexander

To Guarantors: Mr. James Nashan  
Mr. Richard Nashan  
c/o Chicago Export Packing Company, Inc.  
1453 West 38th Street  
Chicago, IL 60609

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

18. Forbearance. 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 right or remedy hereunder. 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.

19. Waivers. Mortgagors waive the benefit and agrees not to invoke any appraisal, valuation, stay, extension or exemption laws, or any so-called "moratorium laws," not existing or hereafter enacted, in order to prevent or hinder the enforcement of foreclosure of this Mortgage. Mortgagors for Borrower and all who may claim through or under Mortgagors waive any and all rights to have the property and estates comprising the mortgaged Property marshalled upon any foreclosure of the lien hereof and agree that any court having jurisdiction to foreclose such lien may order the mortgaged Property sold as an entirety. Mortgagors hereby waive and release all rights and benefits under and by virtue of the homestead exemption laws of the State of Illinois.

20. Binding. This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" when used herein shall include all such persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note or this Mortgage, and shall include the singular or plural as the context may require. All obligations of Mortgagors party comprise the Mortgagors. The word "Lender" when used herein shall include the successors and assigns of Lender named herein, and the holder or holders, from time to time, of the Note secured hereby.

21. Captions. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting in any way the scope or intent of the provisions hereof. Wherever used, the singular number shall

include the plural and the plural the singular, and the use of any gender shall be applicable to all genders.

22. Unauthorized Transfer. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured. Any sale, conveyance, assignment, pledge, hypothecation, encumbrance or other transfer of title to, or any interest in, or the placing of any lien upon the premises or any portion of any entity owning any interest therein (whether voluntary or by operation of law) without Lender's prior written consent shall be an event of default hereunder. Any consent by Lender to, or any waiver of any event which is prohibited under this Paragraph 22 shall not constitute a consent to, or waiver of, any right, remedy or power of Lender upon a subsequent event of default.

23. Junior Mortgage Covenant. This Mortgage is a junior mortgage, the lien of which is junior, subject and subordinate to the lien of that certain Turst Deed dated April 1, 1993 (hereinafter referred to as the "First Mortgage") in favor of Chicago Title and Trust Company, recorded on April 1, 1993 with the Recorder of Deeds of Cook County, Illinois as Document Number 93239647, to secure a note (hereinafter referred to as the "First Note") in the original principal amount of \$400,000 (FOUR HUNDRED THOUSAND AND 00/100 DOLLARS). The First Mortgage constitutes a first mortgage on all of the mortgaged premises. The indebtedness evidenced by the First Note and secured by the First Mortgage is hereinafter referred to as the "First Indebtedness".

The lien of this Mortgage is also junior, subject and subordinate to the lien of that certain Mortgage dated October 9, 1997 (hereinafter referred to as the "Second Mortgage") in favor of Park Ridge Community Bank recorded on October 14, 1997 with the Recorder of Deeds of Cook County, Illinois as Document Number 97759864 to secure a note (hereinafter referred to as the "Second Note") in the original principal amount of \$100,000 (ONE HUNDRED THOUSAND AND 00/100 DOLLARS). The Second Mortgage constitutes a second mortgage on all of the mortgaged premises. The indebtedness evidenced by the Second Note and secured by the Second Mortgage is hereinafter referred to as the "Second Indebtedness".

Mortgagor covenants and agrees that it shall well and truly perform and discharge each and all of the obligations of the conditions of the First Mortgage and First Note, the Second Mortgage and Second Note, and all other documents relating thereto (hereinafter referred to collectively as the "Prior Loan Documents"), and that a default or the occurrence of an event of default under any of the Prior Loan Documents shall constitute a default hereunder, in consequence whereof Mortgagee may avail itself of any or all of the rights or remedies reserved herein or

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allowed or permitted by law or in equity as in such case made and provided.

Notwithstanding anything herein to the contrary, all rights of Mortgagee under this Mortgage are subject to the rights of the holder of the First Indebtedness and the Second Indebtedness so long as the same remains unpaid. In the event the provisions hereof conflict or are inconsistent with provisions of the Prior Loan Documents such that Mortgagor is unable to fully comply with any provision hereof as a result of Mortgagor's compliance with the provisions of any of the Prior Loan Documents, e.g. as to payment of taxes in installments or delivery of insurance policies, Mortgagor shall not be in default hereunder so long as Mortgagor continues to comply with the Prior Loan Documents; provided, however, that upon payment in full of the First Indebtedness and the Second indebtedness such provisions hereunder are complied with by Mortgagor.

IN WITNESS WHEREOF, Mortgagors have executed this Mortgage as of the date above first written.

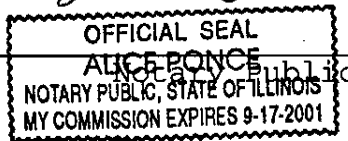
  
\_\_\_\_\_  
JAMES NASHAN

  
\_\_\_\_\_  
KAREN ANN NASHAN

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

I, Alice Ponce, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James Nashan appeared before me this day in person and acknowledged that he signed and sealed the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16 day of April, 1999.



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

I, Alice Ponce, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Karen Ann Nashan appeared before me this day in person and acknowledged that she signed and sealed the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16 day of April, 1999.



EXHIBIT A

LEGAL DESCRIPTION

LOT 6 IN BLOCK 6 IN PARK RIDGE MANOR, BEING ARTHUR DUNAS' SUBDIVISION OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 41 NORTH, RANGE 12 AND THAT PART OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 40 NORTH, RANGE 12 LYING NORTH OF THE CENTER LINE OF TALCOTT ROAD, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Number: 09-35-420-018

Street Address: 1104 South Washington  
Park Ridge, IL 60068