

9/24/2019

95-R-19

A RESOLUTION

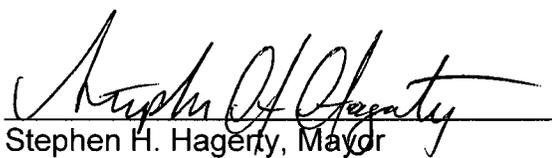
Authorizing the City Manager to Enter into a Twelve Month Lease Agreement for the Apartment Located at 1223 Simpson Street

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COUNTY OF COOK, STATE OF ILLINOIS:

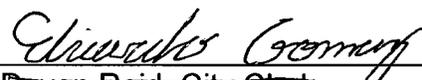
SECTION 1: The City Manager is hereby authorized and directed to sign, and the City Clerk hereby authorized and directed to attest on behalf of the City of Evanston, a lease for twelve (12) months for the Apartment located at 1223 Simpson Street by and between the City and the Tenants, Michael Velasquez and Yaridssa Cruz. The lease shall be for the following period: November 1, 2019 to October 31, 2020. The lease shall be in substantial conformity with the lease marked as Exhibit 1, attached hereto and incorporated herein by reference.

SECTION 2: The City Manager is hereby authorized and directed to negotiate any additional terms and conditions of the leases as may be determined to be in the best interests of the City.

SECTION 3: Resolution 95-R-19 shall be in full force and effect from and after its passage and approval in the manner provided by law.


Stephen H. Hagerty, Mayor

Attest:


Devon Reid, City Clerk
Eduardo Gomez, Deputy City Clerk

Approved as to form:


Michelle L. Masoncup, Corporation
Counsel

Adopted: October 14, 2019

EXHIBIT 1
LEASE AGREEMENT

CITY OF EVANSTON – MODEL LEASE AGREEMENT

LEASE SUMMARY						
DATE OF LEASE	TERM OF LEASE		TOTAL RENT FOR TERM	PAYABLE MONTHLY	SECURITY DEPOSIT	DECORATING ALLOWANCE
10/15/2019	BEGINNING 12:01 A.M. <u>11/1, 2019</u> DATE YEAR	ENDING 12:01 A.M. <u>10/31, 2020</u> DATE YEAR	\$18,000	\$1,500	\$0.00	\$0.00

**IF NONE, WRITE "NONE"*

TENANTS:

LIST ALL OCCUPANTS: Michael Velasquez, Yaridssa Cruz, and three minor children.

APARTMENT: Boiler Room Apartment
ADDRESS OF PREMISES: 1223 Simpson Street
Evanston, IL 60201

TELEPHONE:

LANDLORD

NAME(S): City of Evanston

BUSINESS:

ADDRESS: 2100 Ridge Avenue
Evanston, IL 60201

TELEPHONE of Landlord or Agent:

24 Hour Telephone Number(s): (847) 443-4311

This Agreement is made and entered into on the date first shown by and between Landlord and Tenant. Landlord and Tenant agreed together:

Additional AGREEMENTS between Landlord and Tenant (if any), including repairs to be made, parking, storage facilities, renewal options. The City will provide one (1) parking space in the parking lot adjacent to the Apartment for Tenant use.

LEASE AGREEMENTS AND COVENANTS

All sections referred to in this Lease Agreement are regarding sections detailed in the Evanston Residential Landlord and Tenant Ordinance and shall be referred to thereafter as "ERLTO" – (Chapter also means "ERLTO")

1. **THE PREMISES.** (SECTION 5-3-2 (A)) The "Premises" is the address and unit number listed above that Tenant will occupy.

2. **IDENTIFICATION OF OCCUPANTS.** (SECTION 5-3-3-1(B)) All rental agreements for leases of dwelling units subject to Title 5 Chapter 3 shall contain the full names and birth dates of all occupants of the dwelling unit leased or to be leased under the rental agreement. The individual occupancy of the dwelling unit may not be changed without an amendment to the existing rental agreement reflecting the change in occupancy and shall in no case exceed the maximum occupancy permitted elsewhere in the City Code for that size unit.

3. **UTILITIES.** Landlord agrees to furnish the following services to Tenant: electricity, gas, water, heat, trash and garbage removal. For use on the premises of the following utilities Tenant will be billed directly and make payment to the utility company (specify) telephone.

4. PERSONS AUTHORIZED TO ACT ON BEHALF OF LANDLORD (SECTION 5-3-5-2(A-C))

a. The landlord or any person authorized to enter into a rental agreement on his/her behalf shall disclose to the tenant in writing, on or before the commencement of the tenancy: (1) The name, address and twenty four (24) hour telephone number of the person authorized to manage the premises; and (2) The name and address of the owner of the premises or the person authorized to act on behalf of the owner for the purpose of service of process and for the purpose of receiving notices and demands.

b. A person who fails to comply with subsection (A) of this section becomes an agent of each person who is a landlord for: (1) Service of process and receiving of notices and demands; and (2) Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for that purpose all rent collected from the premises.

c. The information required to be furnished by subsection (a) of this section shall be kept current. Subsections (a) and (b) of this section extend to and are enforceable against any successor landlord or manager.

5. **CODE VIOLATIONS.** (SECTION 5-3-5-2(D)) Before a tenant initially enters into or renews a rental agreement for a dwelling unit, the landlord or any person authorized to enter into a rental agreement on his/her behalf shall disclose to the tenant in writing any code violations which have been cited by the city for the dwelling unit and common area.

6. **FIXTURES.** All cabinets, drapes, blinds and shutters, plumbing fixtures, electrical fixtures, refrigerators, ovens, stoves and all following fixtures and furniture now on the premises (specify, if any), are part of the premises and leased at no extra charge to Tenant with the premises:

8. **HEATING AND HOT WATER.** Landlord shall furnish to and for the use of Tenant, in fixtures on the premises provided for such purpose by Landlord and no other fixtures, hot and cold water in radiators or other fixtures on the premises, and a reasonable amount of

heat at reasonable hours at least as required by the applicable municipal code.

9. **USE OF PROPERTY (SECTION 5-3-4-4)** Unless otherwise agreed, the tenant shall occupy his/her dwelling unit only as a dwelling unit.

10. **SECURITY DEPOSIT. (SECTION 5-3-5-1(A), (C))**

a. A landlord may not demand or receive security or prepaid rent or any combination thereof in an amount in excess of one and one-half (1½) months' rent; provided, however, that rent paid on the first day of the month or upon any other day mutually agreed upon by the parties, due and payable in advance for that month, shall not be construed herein as either security or prepaid rent and therefore shall not be included in the computation of the aforesaid one and one-half (1½) months' rent. The tenant shall pay the landlord, at the time the tenant moves into the premises or at any other time mutually agreed upon by the parties, the amount of the security or prepaid rent required by the landlord. However, if the landlord requires a security deposit or prepaid rent in excess of one month's rent, but not exceeding one and one-half (1½) months' rent, that portion in excess of one month's rent at the election of the tenant, shall be paid either at the time the tenant pays the initial security deposit, or shall be paid in no more than six (6) equal installments no later than six (6) months after the effective date of the lease. Interest on that portion of a security deposit or prepaid rent exceeding one month's rent, if paid in installments, shall not be computed until all installments are paid to the landlord.

b. Upon termination of the tenancy, property or money held by the landlord as security or prepaid rent may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with Subsection 4-1 of this chapter, all as itemized by the landlord in a written notice delivered to the tenant together with the amount due twenty one (21) days after tenant has vacated his/her unit. Any security or prepaid rent not so applied, and any interest on such security due to the tenant, shall be paid to the tenant within twenty one (21) days after tenant has vacated his/her unit. In the event the rental agreement terminates pursuant to subsection 5-3-7-4(A) regarding landlord's wrongful failure to supply essential services, the obligations imposed on the landlord pursuant to this subsection (C) shall be performed within forty eight (48) hours after the expiration of the seven (7) day written notice to the landlord to restore service.

11. **INTEREST ON SECURITY DEPOSITS. (SECTION 5-3-5-1(B))**. A landlord who receives security or prepaid rent from a tenant shall pay interest to the tenant at the rate equal to the interest rate paid on such security deposits in the city of Chicago. A landlord shall pay to the tenant interest on all deposits within thirty (30) days after the end of each twelve (12) month rental period, by cash or credit to be applied to the rent due, except when the tenant is in default under the terms of the rental agreement. Interest on that portion of a security deposit or prepaid rent exceeding one month's rent, if paid in installments, shall not be computed until all installments are paid to the landlord.

12. **ENTRY BY LANDLORD. (SECTION 5-3-4-3)**

a. The Tenant shall not unreasonably withhold consent to the Landlord to enter the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or show the dwelling unit to prospective or actual purchasers, mortgages, Tenants or workmen.

b. The Landlord may enter the dwelling unit without consent of the Tenant in case of emergency.

c. The Landlord shall not abuse the right of access or use it to harass the Tenant. Except in cases of emergency, or unless it is impractical to do so, the Landlord shall give the Tenant at least two (2) days notice of his intent to enter and may enter only at reasonable times.

13. **ADDITIONAL TENANT OBLIGATIONS (SECTION 5-3-4-1, 5-3-5-3)**

Tenant shall:

a. Comply with all obligations imposed upon Tenant by provision of the codes applicable to the dwelling unit.

b. Keep that part of the premises that he occupies and uses as safe as the condition of the premises permits.

c. Dispose from his dwelling all ashes, rubbish, garbage and other waste in a clean and safe manner.

d. Keep all plumbing fixtures in the dwelling unit or used by the Tenant as clean as their condition permits.

e. Use in a reasonable manner all electrical, plumbing, sanitary, heating ventilation, air conditioning and other facilities and appliances, including elevators, in the premise.

f. Not deliberately or negligently destroy, deface damage, impair, or remove any part of the premises or knowingly permit any person to do so.

g. Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbor's peaceful enjoyment of the premises.

h. Not engage in or permit the unlawful selling, possession, serving, storage, deliverance, manufacture, cultivation, giving away, or use of any controlled substance, prostitution, or gambling on the leased premises.

14. **PROHIBITION AGAINST CRIMINAL ACTIVITY ON PREMISES. (SECTION 5-3-4-5)**

a. Tenant, any member of the tenant's household, tenant's guest(s), and any person under tenant's control must not engage in or facilitate criminal activity on the premises or on landlord's property, which includes the premises as described in the rental agreement.

b. Tenant, any member of the tenant's household, tenant's guest(s), and any person under tenant's control must not permit the premises to be used for, or to facilitate, criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.

c. Tenant, any member of the tenant's household, tenant's guest(s), and any person under tenant's control must not engage in or facilitate any breach of the lease agreement that jeopardizes the health, safety, and welfare of the landlord, his or her agent, other tenant(s), or involves imminent or actual serious property damage.

d. One or more violations of Subsections (a), (b), or (c) of this Section constitutes a material noncompliance with the residential landlord-tenant ordinance and the rental agreement. Any such violation is grounds for termination of tenancy and eviction from the premises.

e. Proof of violation will not require criminal conviction, but an arrest or citation (supported by admissible corroborating evidence that activity in violation of the above provisions has occurred) for a described violation will be sufficient evidence of a violation constituting material noncompliance with the rental agreement and Code.

1. Any such violation committed by the tenant or any member of the tenant's household is grounds for landlord to terminate the tenancy of that individual tenant or household member and to evict that individual from the leased premises. Any eviction action must be conducted in accordance with the statutory requirements stated in the Illinois Forcible Entry and Detainer Act, 735 ILCS 5/9-101 et seq.

2. As provided by Illinois law, landlord has the power to bar the presence of a person from the leased premises who is not tenant or a member of tenant's household. A landlord bars a person from the premises by providing written notice to tenant that the person is no longer allowed on the premises. That notice must be provided in accordance with the statutory requirements provided in Illinois law, 735 ILCS 5/9-106.2.

f. For purposes of this Section, "criminal activity" includes any of the offenses below:

1. Homicide, 720 ILCS 3/0-1 et seq.

2. Aggravated assault, 720 ILCS 5/12-2.

3. Aggravated battery, 720 ILCS 5/12-3.05.

4. Criminal street gang recruitment, 720 ILCS 5/12-6.4.

5. Unlawful contact with street gang members, 720 ILCS 5/24.

6. Armed violence, 720 ILCS 5/33A-2.

7. Kidnapping and related offenses, 720 ILCS 5/10-1 et seq.

8. Possession of explosives or incendiary devices, 720 ILCS 5/20-2 et seq.

9. Any offense involving deadly weapons, 720 ILCS 5/24-1 et seq.

10. Mob action, 720 ILCS 5/25-1 et seq.

11. Theft, 720 ILCS 5/16-1 et seq.

g. A tenant who is an innocent party or the victim of a crime, including but not limited to actual or threatened domestic violence, or sexual violence, will not be in violation of this Section or subject to eviction based on criminal activity. Nothing in this Section prohibits the landlord from evicting only the perpetrator of the domestic violence, or sexual violence, or other criminal activity without affecting the tenancy of the remaining tenants in the unit.

h. A Tenant will not be in violation of this Section or subject to eviction based on:

1. Contact made to police or other emergency services, if:

A. The contact was made with the intent to prevent or respond to domestic violence or sexual violence;

B. The intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or

C. The contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability.

2. An incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the premises; or

3. Criminal activity or a local ordinance violation occurring in the dwelling unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member or guest.

15. ADDITIONAL LANDLORD OBLIGATIONS. (SECTION 5-3-5-3)

a. The landlord shall maintain the premises in substantial compliance with the applicable codes of the city and shall promptly make any and all repairs necessary to fulfill this obligation.

b. The landlord and tenant of any dwelling unit may agree that the tenant is to perform specified repairs, maintenance tasks, alterations or remodeling only if: (1) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration; and (2) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

c. Landlord must address, which may include commencing eviction proceedings, with tenant any and all violations of Section 5-3-4-5, Prohibition against Criminal Activity on Premises, to ensure other tenants and occupants of the landlord's property have housing free from criminal activity.

16. TENANT'S REMEDIES FOR LANDLORD'S NON COMPLIANCE. (SECTION 5-3-7-1)

a. If there is a material noncompliance by the landlord with the rental agreement or with section 5-1(F) or 5-3 of this chapter, the tenant may deliver a written notice to the landlord specifying the breach and that the rental agreement will terminate on a date not less than thirty (30) days after receipt of the notice, or in the case of owner occupied dwelling units containing two (2) or fewer rooming units, upon a date not less than forty eight (48) hours after receipt of the notice, unless the breach is remedied by the landlord prior to the expiration of the notice. If the breach is not remedied prior to the expiration of the notice, the rental agreement shall terminate as provided in the notice. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his/her family, or other person on the premises with his/her consent.

b. Except as provided in this chapter, the tenant may recover damages and obtain injunctive relief for any material noncompliance by the landlord with the rental agreement or with Subsection 5-3 of this chapter. If the landlord's noncompliance is willful, the tenant may recover reasonable attorney fees.

c. If the rental agreement is terminated, the landlord shall return all security and interest recoverable by the tenant under Subsection 5-1 of this chapter and all prepaid rent.

17. TENANT'S REMEDIES: SELF HELP FOR DEFECTS AND RENT WITHHOLDINGS. (SECTION 5-3-7-3)

a. With respect to any single violation, the tenant may choose either the remedy in subsection (a)(1) or (a)(2) of this section.

(1) If the landlord fails to comply with the rental agreement or with Subsection 5-3(A) of this chapter, and the reasonable cost of compliance is less than two hundred dollars (\$200.00) or an amount equal to one-half (1/2) of the monthly rent, whichever amount is greater, the tenant may recover damages for the breach under Subsection 7-1(B) of this chapter or may notify the landlord in writing of his/her intention to correct the condition at the landlord's expense. If the landlord fails to comply within fourteen (14) days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may have the work done in a workmanlike manner and, after submitting to the landlord a receipted bill from an appropriate tradesman, deduct from his/her rent the amount thereof, not exceeding the limits specified in this subsection; provided, that the tenant has fulfilled his/her affirmative obligations under Subsection 4-1 of this chapter.

(2) If the landlord fails to comply with the rental agreement or with Subsection 5-3(A) of this chapter, the tenant may, where the condition has been cited as a code violation by the city, notify the landlord in writing of the tenant's intention to withhold from the monthly rent an amount which reasonably reflects the reduced value of the premises. If the landlord fails to correct the condition within fourteen (14) days after being notified by the tenant in writing, the tenant may, during the time such failure continues, deduct from the rent the stated amount.

b. A tenant may not repair at the landlord's expense or withhold rent under this section if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his/her family or other person on the premises with his/her consent.

c. Before correcting a condition affecting facilities shared by more than one dwelling unit, the tenant shall notify all other tenants sharing such facilities of his/her plans, and shall so arrange the work as to create the least practicable inconvenience to the other tenants.

18. TENANT'S REMEDIES FOR LANDLORD'S FAILURE TO SUPPLY ESSENTIAL SERVICES. (SECTION 5-3-7-4)

a. If contrary to the rental agreement, the Landlord fails to supply heat, running water, hot water, electricity, gas or plumbing the Tenant may:

(1) Deliver a written notice to the landlord specifying the service to be restored, that the service must be restored within seven (7) days of delivery of the notice, and that the rental agreement will terminate automatically at the expiration of the seven (7) days if the specified service is not restored.

(2) Pay for the provision of these services and deduct the cost from their next rental payment, or payments, in the event the cost of services procured exceeds the amount of the next rental payment.

(3) Recover damages based upon the diminution in the fair rental value.

(4) Procure substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance. The tenant may recover the cost of reasonable values of the substitute housing up to an amount equal to the monthly rent and reasonable attorneys' fees.

b. If the tenant proceeds under this Section, he may not proceed under Sections 5-3-7-1 or 5-3-7-3 for that breach.

c. The tenant may not exercise his rights under this Section if the condition was caused by the inability of a utility supplier to provide service or by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

19. TENANT'S REMEDIES FOR LANDLORD'S FAILURE TO DELIVER POSSESSION OF PREMISES. (SECTION 5-3-7-2)

a. If the landlord fails to deliver possession of the dwelling unit to the tenant in compliance with the rental agreement and

Subsection 5-3 of this chapter, rent abates until possession is delivered and the tenant may: (1) Upon at least five (5) days' written notice to the landlord, terminate the rental agreement and upon termination the landlord shall return all prepaid rent and security; or (2) Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him/her.

b. If a person's failure to deliver possession is willful, an aggrieved person may recover from that person wrongfully in possession, an amount not more than two (2) months' rent or twice the actual damages sustained by him/her, whichever is greater, and reasonable attorney fees.

20. TENANT'S REMEDIES FOR LANDLORD'S UNLAWFUL INTERRUPTION OF TENANCY. (SECTION 5-3-12-5)

a. If a Landlord or any person acting at his direction violates paragraph 32 of this Lease, the Tenant shall have the right to terminate the rental agreement by sending the Landlord written notice of his intention to terminate within three (3) days of the violation. If the rental agreement is terminated, the Landlord shall return all security deposit, prepaid rent and interest to the Tenant in accord with paragraphs 10 and 11 of the Lease.

21. LANDLORD'S NONCOMPLIANCE AS DEFENSE TO ACTION FOR THE POSSESSION OR RENT. (SECTION 5-3-7-5)

a. In an action for possession based upon nonpayment of rent or in an action for rent where the tenant is in possession, the tenant may counterclaim for any amount which he/she may recover under the rental agreement or this chapter. In that event, the court may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit, the landlord may recover reasonable attorney fees.

b. In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in subsection (a) of this section, but the tenant is not required to pay any rent into court.

22. LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS. (SECTION 5-3-8-2)

a. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or terminate the rental agreement. In either case, the landlord may recover damages and reasonable attorney fees.

b. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful, but which have the effect of harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In each case, the tenant may recover an amount equal to not more than two (2) months' rent or twice the damages sustained by him/her, whichever is greater, and reasonable attorney fees.

23. LANDLORD'S REMEDIES FOR TENANT'S NONCOMPLIANCE (SECTION 5-3-6-1)

a. (1) If there is a material noncompliance by the tenant with the rental agreement or with Sections 1 (A)-(G), the Landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice, unless the breach is remedied by the tenant prior to the expiration of the notice. If the breach is not remedied prior to the expiration of the notice, the rental agreement shall terminate as provided in the notice.

(2) If there is a material noncompliance by the tenant with any of the provisions of Subsections 4-1(A) through (G) of this Chapter after expiration of the landlord's written notice to tenant to remedy the acts and omissions specified in the notice delivered pursuant to Subsection (A)1 of this Section, throughout the remainder of the term of the rental agreement, the landlord may deliver written notice to the

tenant that the rental agreement shall terminate not less than thirty (30) days after delivery of the written notice to terminate.

(3) If there is noncompliance by the tenant with Section 1 (H), the landlord may deliver written notice to the tenant specifying the acts constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice, or, in the case of owner-occupied dwelling units containing two or fewer rooming units, upon a date not less than forty-eight (48) hours after receipt of notice.

b. If the rent is unpaid when due and the Tenant fails to pay the unpaid rent within ten (10) days, or, in the case of owner-occupied dwelling units containing two or fewer rooming units, within forty-eight (48) hours after receipt of written notice by the Landlord of his/her intention to terminate the rental agreement.

c. Except as provided herein, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with rental agreement or with Section 5-3-4-1. If the tenant's noncompliance is willful, the landlord may recover reasonable attorneys' fees.

24. SUBLEASES, LANDLORD'S REMEDIES IF TENANT ABANDONS PREMISES. (SECTION 5-3-6-2)

If the tenant abandons the dwelling unit, the landlord shall make a good faith effort to rent it at a fair rental. This shall include the acceptance of reasonable subleases. If the landlord succeeds in renting the dwelling unit at a fair rental, the tenant shall be liable for the amount by which the rent due from the date of abandonment to the termination of the initial rental agreement exceeds the fair rental subsequently received by the landlord from the date of abandonment to the termination of the initial rental agreement. If the landlord makes a good faith effort to rent the dwelling unit at a fair rental and is unsuccessful, the tenant shall be liable for the rent due for the period of the rental agreement. In either event, the tenant shall be liable for the advertising expenses and reasonable redecoration costs incurred by the landlord in rerenting the dwelling unit.

25. LANDLORD'S REMEDIES FOR TENANT'S HOLD OVER. (SECTION 5-3-8-1)

If the tenant remains in possession without the landlord's consent, after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful, the landlord in addition may recover an amount not more than two (2) months' periodic rent or twice the damages sustained by him/her, whichever is greater, and reasonable attorney fees. If the landlord consents to the tenant's continued occupancy, Subsection 3-1(C) of this chapter applies.

26. LANDLORD'S REMEDY IF LEASE IS TERMINATED (SECTION 5-3-6-4)

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for damages for breach of the rental agreement and reasonable attorney fees, as provided in subsection 5-1(C) of this chapter.

27. LANDLORD'S REMEDIES REGARDING PROPERTY ABANDONED BY TENANT. (SECTION 5-3-6-5)

a. Except as otherwise agreed, if, upon termination of a tenancy (other than by an order of a court of competent jurisdiction) including, but not limited to, a termination after expiration of a lease or by surrender or abandonment of the premises, a tenant has left personal property on the premises, and the landlord reasonably believes that the tenant has abandoned such personal property, the landlord may:

1. Notify the tenant in writing of his/her demand that such property be removed within the dates set forth in such notice (but not less than 15 days after delivery or mailing of such notice); and that if such property is not removed within the time specified, the property may be sold. If the property is not removed within the time specified in such notice, the landlord may sell the property at a public sale or at a commercially reasonable private sale. The proceeds, less reasonable costs incurred by such sale or storage of property, shall be held by the landlord for the tenant for one year. If the tenant does not claim the proceeds within one year, the proceeds shall be the property of the landlord.

2. If the tenant has left personal property which is reasonably determined by the landlord to be valueless or of such little value that the cost of storing and conducting a sale would

probably exceed the amount that would be realized from such sale, the landlord may notify the tenant in writing that such property be removed by the date specified in such notice (but not less than 15 days after delivery or mailing of such notice), and that if such property is not removed within the time specified, the landlord intends to destroy or otherwise dispose of the property. If the property is not removed within the time specified in the notice, the landlord may destroy or otherwise dispose of the property.

3. The notice shall indicate his/her election to sell specific items of the tenant's personal property and to destroy or otherwise dispose of the remainder of said property.

b. For purposes of this section, "abandonment" shall mean that the tenant has vacated the premises, and that his/her rent is in default and that notice by the landlord to terminate the rental agreement as provided in Subsection 6-1(B) of this chapter has expired.

c. After sending written notice, as provided in Subsection (A) of this section, the landlord shall store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care of the property, but shall not be responsible to the tenant for any loss not caused by the landlord's deliberate or negligent act or omission. The landlord may elect to store the property in or about the previously vacated premises. In such case, the storage shall not exceed commercially reasonable storage rates. If the tenant's property is removed to a commercial storage company, the storage cost shall include the actual charge for such storage and removal from the premises to the place of storage.

d. After the landlord's notice under Subsection (A) of this section, if the tenant makes timely response in writing of his/her intention to remove the personal property from the premises and does not do so within the time specified in the landlord's notice or within thirty (30) days of the delivery or mailing of the tenant's written response or a mutually agreeable date (whichever is later), it shall be conclusively presumed that he/she has abandoned such property. In the event the tenant removes the property after notice, the landlord shall be entitled to the cost of storage for the period the property has remained in his/her safekeeping.

e. Any public sale, authorized under the provisions of this section, shall be conducted pursuant to law in such instances made and provided.

29. LIMITATION OF LANDLORD'S LIABILITY. (SECTION 5-3-5-4)

a. Unless otherwise agreed, a Landlord who sells the premises is relieved of liability under the Lease for events occurring subsequent to written notice to the Tenant of the sale. However, he remains liable to the Tenant for any property and money to which the Tenant is entitled under Subsection 1 and all prepaid rent, unless the Tenant receives written notice that such property, money and prepaid rent have been transferred to the buyer, and that the buyer has accepted liability for such property, money and prepaid rent.

b. Unless otherwise agreed, the manager of the premises is relieved of liability under this Lease for events occurring after written notice to the Tenant of the termination of his management.

29. LEAD DISCLOSURE REQUIREMENTS. (SECTION 5-3-5-5) Landlords subject to this Ordinance must follow all applicable state and federal regulations regarding lead poisoning and must specifically:

a. Provide all prospective and current lessees with a copy of the current approved U.S. Environmental Protection Agency federal pamphlet on lead-based paint disclosure.

b. Disclose any known lead hazards.

30. WAIVER OF LANDLORD'S RIGHT TO TERMINATE LEASE. (SECTION 5-3-6-3) Acceptance of rent with knowledge of a default by the tenant, or acceptance of performance by him/her that varies from the terms of the rental agreement or rules or regulations subsequently adopted by the landlord, constitutes a waiver of his/her right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

31. A FIRE OR CASUALTY DAMAGE. (SECTION 5-3-7-6)

a. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

1. Immediately vacate the premises and notify the landlord in writing within fourteen (14) days thereafter of his/her intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

2. If continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

b. If the rental agreement is terminated, the landlord shall return all security recoverable under section 5-3-5-1 of this chapter and all prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.

c. A tenant may not exercise remedies in this section if the fire or casualty damage was caused by the deliberate or negligent act or omission of the tenant, a member of his/her family, or person on the premises with his/her consent.

32. NOTICE OF REFUSAL TO RENEW RENTAL AGREEMENT. (SECTION 5-3-8-3)

a. If the rental agreement will not be renewed or if a month-to-month tenancy will be terminated, the Landlord shall notify the Tenant in writing thirty (30) days prior to the termination date.

b. If the Landlord fails to give the required written notice, the Tenant may remain in his dwelling for two (2) months, commencing on the date that the written notice is received by the Tenant. During such period, the terms and conditions of the tenancy shall be the same as the terms and conditions during the month of tenancy immediately preceding the notice.

33. RETALIATORY CONDUCT PROHIBITED. (SECTION 5-3-9-1)

a. Except as provided in this paragraph a. Landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring action for possession or by refusing to renew a rental agreement because the Tenant has:

(1) Complained in good faith of a code violation to the government agency charged with the responsibility for the enforcement of such codes;

(2) Complained to the Landlord of a violation under paragraphs 14 and 27 of this Lease and Section 5-2-5-2(D) or Section 5-3-5-3 of the ERLTO.

(3) Organized or become a member of a Tenant union or similar organization or,

(4) Exercised or attempted to exercise any right to enforce any remedy granted to him under this Lease.

b. If the Landlord acts in violation of subsection (a) the Tenant has a defense in any retaliatory action against him for possession and is entitled to the following remedies: he shall recover possession or terminate the rental agreement and in either case, recover an amount equal to and not more than two (2) months rent or twice the damages sustained by him, whichever is greater and reasonable attorney's fees. If the rental agreement is terminated, the Landlord shall return all security deposits and interest recoverable under paragraph 10 and 11 of this Lease and all prepaid rent. In an action by or against the Tenant, if there is evidence of a previous Tenant complaint within one year prior to the alleged act of retaliation, it may be presumed that the Landlord's conduct was retaliatory. The presumption does not arise if the Tenant is making a retaliation complaint regarding a proposed rent increase which applies to all tenants renewing their leases around the same time period.

c. Notwithstanding subsections (a) and (b) a Landlord may bring an action for possession if:

(1) The violation of code was caused primarily by lack of care by the Tenant, a member of his family or other person on premises with his consent, or

(2) The Tenant is in default for payment of rent, other than a purported default under paragraphs 15, 16 and 17 of this Lease and Section 5-3-7-3 (A-C) and Section 5-3-7-4 (A-C) of the ERLTO.

34. UNLAWFUL INTERRUPTION OF TENANCY BY LANDLORD PROHIBITED. (SECTION 5-3-12-1 AND SECTION 5-3-12-2)

a. The Landlord or any person acting at his discretion shall not knowingly oust or dispossess or attempt to dispossess any Tenant from a dwelling unit without authority of law, by plugging, charging, adding or removing any lock or latching device, or by blocking any entrance into said unit, or by removing any door or window from said unit, or by interfering with the services to said unit, including, but not limited to electricity, gas, hot water, plumbing, heat or telephone service, or by removing a Tenant's personal property from said unit; or by the use of force or threat of violence, injury or force to a Tenant's person or property; or by any other act rendering a dwelling unit or any part thereof or any personal property located therein inaccessible or uninhabitable.

b. The provision of subparagraph (a) shall not apply where:

(1) The Landlord acts in compliance with laws of Illinois pertaining to forcible entry and detainer and engages with Sherriff of Cook County to forcibly evict a Tenant or his personal property, or

(2) The Landlord acts in compliance with the laws of Illinois pertaining to distress for rent, or,

(3) The Landlord acts pursuant to court order, or,

(4) The Landlord interferes temporarily with possession only as necessary to make needed repairs or inspection and only as provided by law, or,

(5) The Tenant has a right to possession of the dwelling unit but has been absent therefrom for thirty (30) consecutive days without advising the Landlord of such absence of his/her intent to return, current rent is thirty (30) or more days overdue, and after diligent inquiry, the Landlord has reason to believe that Tenant has abandoned the premises and does not intend to return.

35. LANDLORD RULES AND REGULATIONS. (SECTION 5-3-4-2 (A and B)).

a. Only written landlord Rules and Regulations are enforceable.

b. The following rules and regulations if attached hereto, shall be part of this agreement.

DELIVERY OF RESIDENTIAL LANDLORD AND TENANT ORDINANCE.

As of the date of printing of this lease form, the lease, when fully executed, shall satisfy Section 5-3-10 of the City Code which requires the Landlord to attach a copy of the City of Evanston Residential Landlord and Tenant Ordinance to each written rental agreement and that an acknowledgement of receipt be noted on the lease.

WITNESS the signatures of the parties hereto, as of the first date appearing above.

LANDLORD _____

TENANT _____

If multiple Tenants: _____

NOTE: Both Landlord and Tenant should initial each page of any typed or handwritten attachments to Agreement and each party should retain on fully executed copy of this Agreement.

Approved as to form:
Michelle L. Masoncup
Michelle L. Masoncup
Corporation Counsel