

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., EQUITYBUILD  
FINANCE, LLC, JEROME H. COHEN, and  
SHAUN D. COHEN,

Defendants.

Case No. 1:18-cv-5587

Hon. John Z. Lee

**WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE  
FOR THE REGISTERED HOLDERS OF WELLS FARGO COMMERCIAL  
MORTGAGE TRUST 2014-LC16, COMMERCIAL MORTGAGE  
PASS-THROUGH CERTIFICATES, SERIES 2014-LC16'S LIMITED OBJECTIONS TO  
MEMORANDUM REPORT AND RECOMMENDATION**

Wilmington Trust, National Association, as Trustee for the Registered Holders of Wells Fargo Commercial Mortgage Trust 2014-LC16, Commercial Mortgage Pass-Through Certificates, Series 2014-LC16, ("Mortgage Holder") respectfully submits these limited objections pursuant to Fed. R. Civ. P. 72(b)(2) to the Memorandum Report and Recommendation ("R&R") issued on April 8, 2019 [Dkt. No. 311] in connection with the Receiver's First Motion for Approval of the Sale of Certain Real Estate and for the Avoidance of Certain Mortgages, Liens, Claims, and Encumbrances ("Sale Approval Motion") [Dkt. No. 230] and states as follows:

**INTRODUCTION**

Mortgage Holder does not object to the sale of the property commonly known as 5001-05 South Drexel Blvd. Chicago, Illinois 60615 (the "Property"), so long as the Receiver is ordered to pay Mortgage Holder's loan in full on the sale date. Mortgage Holder believes that this position is consistent with the language of the R&R issued in this matter. However, Mortgage Holder files

these objections in an abundance of caution, because it is unclear from the R&R that (1) the Receiver shall be required to tender the sale proceeds to the Mortgage Holder on the closing date as required by Illinois law and the relevant loan documents and (2) that the sale should take place immediately to avoid any further delay in the sale which will continue to erode an equity cushion sufficient to pay the indebtedness owed to the Mortgage Holder – especially as interest, fees, and other charges continue to accrue until the sale proceeds are received by the Mortgage Holder. As such, the Mortgage Holder objects to the extent the sale is not consummated immediately and the sale proceeds are not tendered to the Mortgage Holder upon closing.

The Receiver has acknowledged that there are no competing liens that would prime Mortgage Holder's lien and Receiver has offered no evidence why Mortgage Holder should not be paid in full as of the closing date. The public real estate records and the parties' filings in this case each evidences the Mortgage Holder's first priority status. In fact, the public records and the Receiver's own admission prove there is absolutely **no EquityBuild affiliate debt or interest attached to the Property**. For this reason alone, this Court should order the Receiver to pay Mortgage Holder in full on the sale date of the Property. Additionally, the failure to tender payment on the closing date contravenes the plain terms of the loan documents, which the Receiver continues to be bound by under federal equity receivership law.

### **OBJECTIONS**

As an initial matter, Mortgage Holder requests clarification from the Court on the R&R. The Sale Approval Motion requests approval to sell the Property free and clear of all liens, including Mortgage Holder's lien. The R&R states Magistrate Judge Kim recommends granting the Sale Approval Motion except to the extent it would extinguish Mortgage Holder's preexisting rights to the Property. Mortgage Holder requests clarification on whether the Property will be sold

free and clear of its lien or whether the Property will be sold subject to Mortgage Holder's lien. This is especially relevant in the event the Mortgage Holder does not receive a full payoff as of the closing date of the sale.

**I. MORTGAGE HOLDER HAS A FIRST PRIORITY LIEN ON THE PROPERTY AND NO EQUITYBUILD INVESTORS HAVE AN INTEREST IN THE PROPERTY.**

Public records show Mortgage Holder has a first priority lien on the Property. The title commitment procured by the Receiver confirms Mortgage Holder has a first priority mortgage and assignment of rents on the Property and that no EquityBuild investors have a recorded interest in the Property. Sale Approval Motion, Exhibit J. In fact, the Receiver's title commitment shows *Mortgage Holder is the only party of record with a mortgage recorded against the Property.*

Indeed, the Receiver even acknowledges Mortgage Holder's first priority lien is the only recorded mortgage lien on the Property. Sale Approval Motion, ¶ 30. Moreover, the proceeds of Mortgage Holder's loan were not used to refinance EquityBuild investors, and there is no EquityBuild affiliate debt associated with the Property. The Receiver has previously represented that certain "conventional lender" loans involved in this case were used to pay off mortgages held by EquityBuild investors. *See* Receiver's Opposition to Motion by Federal Home Loan Mortgage Corporation Concerning Rents Collected by the Equity Receiver [Dkt. No. 115, pp. 3-5, 13-15]. In such instances, the Receiver has insinuated the conventional lenders may have participated in fraud during the underwriting of these loans, and as a result, such conventional lenders are either legally or equitably subordinate to the EquityBuild investors. *Id.*

Here, the Receiver cannot make this argument. Mortgage Holder's loan was originally made by Wells Fargo Bank, National Association to Ohio Commons LLC<sup>1</sup> (the "Loan"). The Loan

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<sup>1</sup> Ohio Commons LLC is not affiliated with EquityBuild and is not a receivership defendant. Neither the Order Appointing Receiver [Dkt No. 16] nor the Receiver's Motion to Amend and Clarify Order Appointing Receiver to

was used to pay off a prior loan between Ohio Commons LLC and FirstMerit Bank, N.A. Attached hereto as **Exhibit A** is a true and correct copy of the loan closing statement evidencing a payoff to FirstMerit Bank, N.A. for payoff of the loan made by FirstMerit Bank, N.A. Also attached hereto as **Exhibit B** are true and correct copies of a recorded Satisfaction of Mortgage and Release of Assignment of Rents made by FirstMerit Bank, N.A. in favor of Ohio Commons LLC. These documents were recorded against the Property immediately after the payoff was made, further evidencing the Loan was used to pay off FirstMerit Bank, N.A. and not an EquityBuild affiliate. Mortgage Holder's position is further bolstered by the Receiver's own admission in filings to the Court that "[t]he [P]roperty does not appear to have EquityBuild affiliate debt." *See* Receiver's Motion for Court Approval of the Process for Public Sale of Real Property by Sealed Bid [Dkt. No. 130, ¶ 6].

There is simply no legal basis for the Receiver to deny withholding payment from the Mortgage Holder from the sale proceeds. Public records confirm Mortgage Holder has a first priority mortgage on the Property, and the Receiver has admitted there is no EquityBuild affiliated debt with the Property. The Receiver has baselessly reserved the right to contest Mortgage Holder's lien for over eight months without a scintilla of evidence. The reason the Receiver has failed to provide any evidence is simple—there is no such evidence. In the event this Court grants the Sale Approval Motion, Mortgage Holder requests the Court to also order the Receiver to pay Mortgage Holder in full on the sale date with the sale proceeds.

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Specifically Identify Additional Known Receivership Defendants [Dkt No. 226] identify Ohio Commons LLC as a receivership defendant or an affiliate of a receivership defendant. The Loan was assigned to and assumed by 5001 S. Drexel LLC over three and a half years after origination. 5001 S. Drexel LLC is listed in the Order Appointing Receiver as a receivership defendant.

**II. MORTGAGE HOLDER IS NOT ADEQUATELY PROTECTED IF THE SALE PROCEEDS ARE NOT USED TO PAY THE MORTGAGE HOLDER IN FULL AS OF THE CLOSING DATE.**

The Property is security for repayment of Mortgage Holder's loan and failing to pay Mortgage Holder on the sale date leaves Mortgage Holder unsecured and not adequately protected. The Sale Approval Motion proposes to escrow the sale proceeds from the Property pending a claims process and approval of a distribution plan. Sale Approval Motion, ¶ 56. The R&R supports this plan. R&R, pp. 7-8. This plan fails to adequately protect Mortgage Holder. Although the R&R attempts to address this point by presuming the sale proceeds "should be more than sufficient to cover the estimated lien payoff," Mortgage Holder respectfully disagrees with the Magistrate Judge's conclusion. R&R, p. 7.

Assume the Receiver is scheduled to close on the sale of the Property on May 1, 2019. The Receiver then obtains a payoff statement from Mortgage Holder with indebtedness dated as of May 1, 2019. At the time of the closing, the funds are sufficient to pay Mortgage Holder's indebtedness in full based on the payoff statement obtained from Mortgage Holder. However, the Receiver has indicated that he intends to withhold payment of the net proceeds (possibly for another year or more), while the Receiver litigates Mortgage Holder's lien. During this period, Mortgage Holder has not been paid any sale proceeds at the time of sale, or monthly principal and interest on its debt, which continues to accrue interest, default interest, costs, expenses, and attorneys' fees that are required to be paid under the loan documents. It is likely that the May 1 sale proceeds will not be sufficient to satisfy the indebtedness under the loan documents a year later. Moreover, the Receiver intends to pay from the closing proceeds more than \$140,000.00 for closing costs [Dkt. 230, ¶¶37-43, Ex. M] and the Receiver will assuredly seek his own attorneys'

fees and costs associated with the sale.<sup>2</sup> Such additional expenses turn what appears to be a healthy purchase price of \$2,800,000 into a significantly lower amount. These additional expenses, coupled with the rising costs of the amounts due under the loan documents, will significantly reduce the net proceeds, causing significant and real harm to Mortgage Holder's ability to recover the Loan amount. The R&R states the Receiver should explore was to stop the accrual of fees, costs, and interest. R&R, p. 7, n.2. The simplest and most logical way to accomplish this is to pay Mortgage Holder in full on the sale date.

Furthermore, the Receiver has no authority to require a senior secured party to take a discounted payoff. *See generally, S.E.C. v. Madison Real Estate Grp., LLC*, 647 F. Supp. 2d 1271, 1284-85 (D. Utah 2009) (holding the receiver must bring loans current and make loan payments pursuant to the loan documents); *U.S. Commodity Futures Trading Comm'n v. AlphaMetrix, LLC*, No. 13 C 7896, 2017 WL 5904660, at \*2, n.3 (N.D. Ill. Mar. 9, 2017) (noting that regarding a secured creditor's interests that "[a] pre-existing contractual remedy between creditor and debtor would bind the receiver...."). Yet, this is exactly the scenario that happens if the Sale Approval Motion is granted and the Receiver is not required to immediately pay Mortgage Holder with the sale proceeds. Such a scenario certainly does not leave Mortgage Holder adequately protected.

**III. THE RECEIVER TAKES THE PROPERTY SUBJECT TO MORTGAGE HOLDER'S LIEN AND IS REQUIRED TO PAY MORTGAGE HOLDER THE SALE PROCEEDS TO SATISFY THE INDEBTEDNESS AS OF THE CLOSING DATE PURSUANT TO THE LOAN DOCUMENTS.**

Mortgage Holder is entitled to the sale proceeds pursuant to the loan documents. Section 1.1(m) of the Mortgage states the sale proceeds of the Property are part of Mortgage Holder's collateral for repayment of the loan. A true and correct copy of the Mortgage is attached as **Exhibit**

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<sup>2</sup> The Receiver has also indicated he may charge Mortgage Holder "administrative fees," further reducing the likelihood Mortgage Holder will receive a full pay off. [Dkt. 302, p. 13].

C. As the Magistrate Judge correctly notes in the R&R, the Receiver is bound by this contractual obligation. R&R, pp. 7-8 (stating “to be sure, ‘a receiver appointed by the federal court takes property subject to all liens, priorities, or privileges existing or accruing under the laws of the state.’” (internal citation omitted)). Similarly, as the *Madison* court noted, “While this court may have broad powers to carry out the purpose of the Receivership, **the court is disinclined to put the interests of the buyers and the Receivership over the interests of secured creditors.**” *Madison Real Estate Grp., LLC*, 647 F. Supp. 2d at 1277 (emphasis added). As a result, the Receiver must turn over the sale proceeds to Mortgage Holder for repayment of the Loan. Any other result must be rejected under state and federal law and by the terms of the loan documents by which the Receiver is bound. R&R, pp. 7-8; *see also AlphaMetrix, LLC*, No. 13 C 7896, 2017 WL 5904660, at \*2, n.3.

**IV. MORTGAGE HOLDER WILL BE SUBSTANTIALLY PREJUDICED IF THE SALE PROCEEDS ARE NOT IMMEDIATELY TURNED OVER.**

If Mortgage Holder is not paid in full on the sale date, then the Receiver will be allowed to needlessly keep Mortgage Holder in this case, causing undue burden and prejudice to Mortgage Holder. Mortgage Holder will be forced to further participate in this case for an undetermined length of time to ensure it receives payment of its Loan, all the while its collateral (i.e., the Property) will have long been sold. This will result in unnecessary additional interest, default interest, costs, expenses and attorneys’ fees incurred by Mortgage Holder and the Receiver. This will also result in unnecessary costs and expenses to the receivership estate. Such an outcome benefits no party and greatly prejudices Mortgage Holder.

**CONCLUSION**

For the foregoing reasons, the Mortgage Holder respectfully objects to the R&R which recommends granting Receiver’s Sale Approval Motion, absent any requirement in the R&R that

the Receiver immediately turn over the sale proceeds to Mortgage Holder to satisfy the full amount of the Loan upon the closing of the sale and that the sale occur immediately and without delay.

Dated: April 22, 2019

/s/ Jill L. Nicholson

Jill L. Nicholson (jnicholson@foley.com)  
Andrew T. McClain (amcclain@foley.com)  
Foley & Lardner LLP  
321 N. Clark St., Ste. 2800  
Chicago, IL 60654  
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Fax: (312) 644-7528  
*Counsel to Wilmington Trust, National  
Association, as Trustee for the Registered  
Holders of Wells Fargo Commercial Mortgage  
Trust 2014-LC16, Commercial Mortgage Pass-  
Through Certificates, Series 2014-LC16*



**CERTIFICATE OF SERVICE**

I hereby certify that on April 22, 2019, a copy of the foregoing **WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF WELLS FARGO COMMERCIAL MORTGAGE TRUST 2014-LC16, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2014-LC16'S LIMITED OBJECTIONS TO MEMORANDUM REPORT AND RECOMMENDATION** was served by filing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to counsel of record.

/s/ Jill L. Nicholson

**EXHIBIT A**



CHICAGO TITLE AND TRUST COMPANY

10 S LASALLE STREET  
CHICAGO, IL 60603

ESCROW TRUST DISBURSEMENT STATEMENT

DISBURSEMENT DATE: April 22, 2014

REFER TO: AMANDA QUAS-LEY  
PHONE: (312)223-2054  
FAX: (312)223-2108

ESCROW TRUST NO. [REDACTED]-001  
TITLE ORDER NO. [REDACTED]1556

PARTIES:  
BORROWER: OHIO COMMONS, LLC  
LENDER: WELLS FARGO BANK, NA  
PROPERTY: 5001 S. DREXEL, CHICAGO, IL

RECEIPTS:

04/22/14	WELLS FARGO --LOAN PROCEEDS	2,284,209.26
		<u>2,284,209.26</u>
		\$ 2,284,209.26

DISBURSEMENTS:

01) CHICAGO TITLE AND TRUST COMPANY - Borrower's Charges

Re: Title Order No. [REDACTED]1556

ESCROW FEE	1,250.00	
NY CLOSING FEE	300.00	
TITLE INSURANCE	2,070.00	
ENDORSEMENTS	3,500.00	
TITLE UPDATE FEES	200.00	
WIRE FEES	80.00	
ESTIMATED RECORDING FEES	300.00	
ILAPLD CERTIFICATE SERVICE FEE	50.00	
EXPRESS DELIVERY SERVICE FEE	50.00	
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	\$7,800.00	\$7,800.00

02) CEDAR STREET CAPITAL PARTNERS LLC FINANCE FEE	23,000.00	\$23,000.00
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03) BROTSCHUL POTTS LLC LEGAL FEES	20,000.00	\$20,000.00
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04) BROTSCHUL POTTS LLC REIMBURSEMENT FOR ARTICLES OF AMENDMENT FILING FEES	347.00	\$347.00
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05) MORADI MULTI DIMENSIONS CONSULTING SURVEY UPDATE FEE	500.00	\$500.00
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06) CSC ORGANIZATIONAL DOCUMENTS	465.00	\$465.00
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07) CBRE, INC. LBP O&M PLAN AND ACM O&M PLAN	800.00	\$800.00
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ESCROW TRUST NO. D2201411025-001  
PAGE NO. 2

08) LAMB LITTLE & COMPANY INSURANCE PREMIUM	4,532.52	\$4,532.52
09) METCAP BANK PAYMENT AS DIRECTED	50,000.00	\$50,000.00
10) GRANDBRIDGE REAL ESTATE CAPITAL, LLC TAX SERVICE FEE	800.00	\$800.00
11) GRANDBRIDGE REAL ESTATE CAPITAL, LLC FLOOD CERTIFICATION	25.00	\$25.00
12) PAYOFF EXISTING LOAN WITH: FIRSTMERIT BANK LOAN NUMBER: 35351-09233-001 PLUS \$ 169.25 INTEREST PER DAY FROM 04/10/14 TO 04/22/14	1,780,111.30 2,031.00	\$1,782,142.30
13) WELLS FARGO CREDIT: APPLICATION FEE LESS: INITIAL INSURANCE DEPOSIT LESS: PER DIEM INTEREST LESS: INITIAL TAX DEPOSIT LESS: APPLICATION FEE LESS: ADD'L BORROWER COST	* 20,000.00 * 5,283.09 * 3,047.50 * 3,087.68 * 20,000.00 * 4,372.47 ----- \$0.00	\$0.00
14) OHIO COMMONS, LLC TOTAL DISBURSEMENT AMOUNT TOTAL BORROWER RECEIPTS		\$1,890,411.82 \$2,284,209.26 -----
OVERDEPOSIT TO BORROWER		\$393,797.44 =====

DISBURSEMENTS APPROVED:

4/22/14  
DATE \_\_\_\_\_

  
FOR BORROWER \_\_\_\_\_

FOR LENDER \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

FOR CHICAGO TITLE AND TRUST \_\_\_\_\_

# **EXHIBIT B**

Doc# 1414108019 fee: \$50.00  
Date: 05/21/2014 08:37 AM Pg. 1 of 2  
Cook County Recorder of Deeds  
\*RHSP:\$9.00 RPRF:\$1.00 FEES Applied

PREPARED BY / RETURN TO:  
First American Title Insurance Company  
Kelly Bonham; 801-261-2359



Po Box 571797  
Salt Lake City, Utah 84157-1797  
Ref No.: 58300 003535109233-140614-SM (OC)

**SATISFACTION OF MORTGAGE**

WHEREAS the indebtedness secured by the mortgage described below has been fully paid and satisfied, FirstMerit Bank, N.A., owner and holder of the debt, hereby declares that the lien of said mortgage is forever discharged and satisfied.

Original Mortgagee: FirstMerit Bank, N.A.  
Original Mortgagor: Ohio Commons, LLC, an Illinois Limited Liability Company

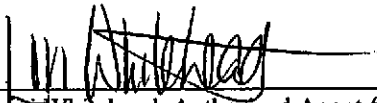
Recorded in Cook County, Illinois, on 12-19-2011 as Inst # 1135311144

Legal Description: Lots 9 and 10 in the Subdivision of Lots 1 to 4 inclusvie in Block 8 in Drexel and Smith's Subdivision of the W 1/2 of NW 1/4 and W 1/2 of W 1/2 of SW 1/4 of Sec11, T38N, R14E of the Third Principal Meridian  
Parcel ID Number: 20-11-114-001-0000  
Property Address: 5001-C5 S Drexel, Chicago IL 60615

Date of Mortgage: 11-30-2011  
Date of Satisfaction: 05-06-2014

Dated: 05-13-2014

FirstMerit Bank, N.A.

By:   
Lori Whitehead, Authorized Agent for First American Title Company  
By Power Of Attorney Dated 06-19-2013; # 1322808061

State of Utah  
County of Salt Lake

This instrument was acknowledged and executed before me this 13 day of May, 2014 by Lori Whitehead for First American Title Company who acknowledge to be the Authorized Agent of FirstMerit Bank, N.A. by Power of Attorney dated 06-19-2013; #1322808061, and that as such officer, being authorized so to do, signed the name of the corporation as such officer.

  
\_\_\_\_\_  
Notary Public

Notary Public: Kelly Bonham  
My Commission expires: 02-04-2017



Prepared by/Return to:  
First American Title  
Kelly Bonham, 801-261-2359  
Kelly Bonham  
P.O. Box 571797  
Salt Lake City, UT 84157-1797  
Ref No.: 58300 003535109233-140614-SM (OC)

RELEASE OF ASSIGNMENT OF RENTS

FirstMerit Bank, N.A., hereby certifies that the interest secured by the following Assignment of Rents has been released and said Assignment of Rents is hereby discharged, which Assignment of Rents is made between Ohio Commons, LLC, an Illinois Limited Liability Company as Grantor and FirstMerit Bank, N.A. as Grantee which is dated 11-30-2011, and was recorded on 12-19-2011, as Entry No. 1135311145, in Book n/a, at Page(s) n/a of the records of the County Recorder of Cook County, Illinois, and cover real property situated in said county described as follows:

Legal Description: Lots 9 and 10 in the Subdivision of Lots 1 to 4 inclusvie in Block 8 in Drexel and Smith's Subdivision of the W 1/2 of NW 1/4 and W 1/2 of W 1/2 of SW 1/4 of Sec11, T38N, R14E of the Third Principal Meridian  
Parcel ID Number: 20-11-114-001-0000  
Property Address: 5001-C5S Drexel, Chicago IL 60615

Dated this 13 day of May, 2014

FirstMerit Bank, N.A.  
Lori Whitehead  
Lori Whitehead, Authorized Agent  
by Power of Attorney dated 06-19-2013; #1322808061

State of Utah  
County of Salt Lake

This instrument was acknowledged and executed before me this 13 day of May, 2014 by Lori Whitehead for First American Title Company who acknowledge to be the Authorized Agent of Firstmerit Bank, N.A. by Power of Attorney dated 06-19-2013; #1322808061, and that as such officer, being authorized so to do, signed the name of the corporation as such officer.

Kelly Bonham  
Notary Public



Notary Public: Kelly Bonham  
My Commission expires: 02-04-2017



# **EXHIBIT C**

8961556 Doc# 1411318041

**Illinois Anti-Predatory  
Lending Database  
Program**

**Certificate of Exemption**



**Doc#:** 1411318041 **Fee:** \$82.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 04/23/2014 11:36 AM Pg: 1 of 23

**Report Mortgage Fraud  
800-532-8785**

The property identified as: **PIN:** 20-11-114-001-0000

**Address:**

**Street:** 5001 S. DREXEL BLVD.

**Street line 2:**

**City:** CHICAGO

**State:** IL

**ZIP Code:** 60615

**Lender:** WELLS FARGO BANK, NATIONAL ASSOCIATION

**Borrower:** OHIO COMMONS LLC

**Loan / Mortgage Amount:** \$2,300,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

**Box 400-CTCC**

**Certificate number:** E52FCA18-8D39-402A-922A-E50865CDE57E

**Execution date:** 04/10/2014

Loan No. 86-0923146

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**OHIO COMMONS LLC, as mortgagor,**

to

**WELLS FARGO BANK, NATIONAL ASSOCIATION, as mortgagee**

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**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND  
FIXTURE FILING**

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Dated: As of April 22, 2014  
Location: 5001 S. Drexel Boulevard, Chicago, Illinois 60615  
County: Cook

PREPARED FOR OR BY AND  
UPON RECORDATION RETURN TO:

WELLS FARGO BANK, NATIONAL ASSOCIATION  
301 South College Street, 12<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
MAC: D1053-124  
Attention: Alicia Fritz

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**THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING** (this "Security Instrument") is made as of this 22nd day of April, 2014, by **OHIO COMMONS LLC**, an Illinois limited liability company, having its principal place of business at 351 W. Chicago Avenue, Chicago, Illinois 60654, as mortgagor (together with its permitted successors and assigns, "Borrower"), to **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association (together with its successors and assigns, "Lender"), as mortgagee. All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement (defined below).

#### RECITALS:

This Security Instrument is given to Lender to secure a loan (the "Loan") advanced pursuant to that certain Loan Agreement, dated as of the date hereof, by and between Borrower and Lender (as the same may have been or may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement"), which such Loan is evidenced by, among other things, that certain Promissory Note, dated as of the date hereof, executed by Borrower in favor of Lender (together with all extensions, renewals, replacements, restatements or other modifications thereof, whether one or more being hereinafter collectively referred to as the "Note");

Borrower desires to secure the payment of the outstanding principal amount set forth in, and evidenced by, the Loan Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, the Loan Agreement, this Security Instrument or any of the other Loan Documents (defined below) (collectively, the "Debt") and the performance of all of the obligations due under the Note, the Loan Agreement, this Security Instrument and all other documents, agreements and certificates executed and/or delivered in connection with the Loan (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "Loan Documents"); and

This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance of the obligations due thereunder and under the other Loan Documents, including, without limitation, the Note, are secured hereby in accordance with the terms hereof.

#### Article 1 - GRANTS OF SECURITY

Section 1.1. Property Mortgaged. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer, convey and grant a security interest to Lender in and to the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "Property"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (collectively, the "Land");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements, and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements, and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), furniture, software used in or to operate any of the foregoing and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the "**Personal Property**"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "**Uniform Commercial Code**"), and all proceeds and products of the above;

(f) Leases and Rents. All leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under any Creditors Rights Laws (collectively, the "**Leases**") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Property, including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Borrower or Manager and proceeds, if any, from business interruption or other loss of income insurance whether paid or accruing before or after the filing by or against Borrower of any petition for relief under any Creditors Rights Laws (collectively, the "**Rents**") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(g) Insurance Proceeds. All insurance proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the

proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property (collectively, the “**Insurance Proceeds**”);

(h) Condemnation Awards. All condemnation awards, including interest thereon, which may heretofore and hereafter be made with respect to the Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property (collectively, the “**Awards**”);

(i) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(k) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(l) Intangibles. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(m) Accounts. All reserves, escrows and deposit accounts maintained by Borrower with respect to the Property, including without limitation, the Accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(n) Proceeds. All proceeds of any of the foregoing items set forth in subsections (a) through (m) including, without limitation, Insurance Proceeds and Awards, whether cash, liquidation or other claims or otherwise; and

(o) Other Rights. Any and all other rights of Borrower in and to the items set forth in subsections (a) through (n) above.

Section 1.2. Assignment of Rents. Borrower hereby absolutely and unconditionally assigns to Lender all of Borrower’s right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Loan Agreement and Section 8.1(h) of this Security Instrument, Lender grants to Borrower a revocable license to (i) collect, receive, use and enjoy the Rents and Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums, and (ii) enforce the terms of, and perform the obligations of the landlord under, the Leases.

Section 1.3. Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Property to the full extent that the Property may be subject to the Uniform Commercial Code.

Section 1.4. Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument, upon being filed for record in the real estate records of the city or county where such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

Section 1.5. Conditions to Grant. TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender, forever; WITH POWER OF SALE, to secure payment to Lender of the Debt at the time and in the manner provided for its payment in the Note and the Loan Agreement; PROVIDED, HOWEVER, these presents are upon the express condition that, if Lender shall be well and truly paid the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, if Borrower shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void.

## **Article 2 - DEBT AND OBLIGATIONS SECURED**

Section 2.1. Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2. Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the performance of the following (the "**Other Obligations**"): (a) all other obligations of Borrower contained herein; (b) each obligation of Borrower contained in the Note, the Loan Agreement and any other Loan Document; and (c) each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.3. Debt and Other Obligations. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "**Obligations.**"

Section 2.4. Payment of Debt. Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

Section 2.5. Incorporation by Reference. All the covenants, conditions and agreements contained in the Loan Agreement, the Note and all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

## **Article 3 - PROPERTY COVENANTS**

Section 3.1. Compliance with Loan Agreement. Borrower shall comply with all covenants set forth in the Loan Agreement relating to the Property, including, without limitation, insurance, taxes and other charges, payment for labor and materials and leases.

Section 3.2. Warranty of Title. Borrower has good, indefeasible, marketable and insurable title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same. Borrower possesses an unencumbered fee simple absolute estate in the Land and the Improvements except for the Permitted Encumbrances, such other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a legal, enforceable, valid, and perfected first priority lien on the Property, subject only to Permitted Encumbrances and the liens created by the Loan Documents and (b) a legal, enforceable, valid, and perfected first priority security interests in and to, and legal, enforceable, valid, and perfected first priority collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all Persons whomsoever.

#### Article 4 - FURTHER ASSURANCES

Section 4.1. Compliance with Loan Agreement. Borrower shall comply with all covenants set forth in the Loan Agreement relating to acts or other further assurances to be made on the part of Borrower in order to protect and perfect the lien or security interest hereof upon, and in the interest of Lender in, the Property.

Section 4.2. Authorization to File Financing Statements; Power of Attorney. Borrower hereby authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, as applicable to all or part of the Personal Property and as necessary or required in connection herewith. For purposes of such filings, Borrower agrees to furnish any information requested by Lender promptly upon request by Lender. Borrower also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto or continuation statements, if filed prior to the date of this Security Instrument. Borrower hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Borrower or in Borrower's own name to execute in Borrower's name any such documents and otherwise to carry out the purposes of this Section 4.2, to the extent that Borrower's authorization above is not sufficient and Borrower fails or refuses to promptly execute such documents. To the extent permitted by law, Borrower hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

#### Article 5 - DUE ON SALE/ENCUMBRANCE

Section 5.1. No Sale/Encumbrance. Except in accordance with the express terms and conditions contained in the Loan Agreement, Borrower shall not cause or permit a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or grant of any options with respect to, or any other transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest in the Property or any part thereof, Borrower, any constituent owner or other holder of a direct or indirect equity



interest in Borrower, any indemnitor or other guarantor of the Loan, any constituent owner or other holder of a direct or indirect equity interest in such indemnitor or guarantor, any manager or operating lessee of the Property that is affiliated with Borrower or any constituent owner or other holder of a direct or indirect equity interest in such manager or such operating lessee.

#### **Article 6 - PREPAYMENT; RELEASE OF PROPERTY**

Section 6.1. Prepayment. The Debt may not be prepaid in whole or in part except in strict accordance with the express terms and conditions of the Note and the Loan Agreement.

Section 6.2. Release of Property. Borrower shall not be entitled to a release of any portion of the Property from the lien of this Security Instrument except in accordance with terms and conditions of the Loan Agreement.

#### **Article 7 - DEFAULT**

Section 7.1. Event of Default. The term "Event of Default" as used in this Security Instrument shall have the meaning assigned to such term in the Loan Agreement.

#### **Article 8 - RIGHTS AND REMEDIES UPON DEFAULT**

Section 8.1. Remedies. Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;
- (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice to Borrower, which notice Borrower expressly waives, and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor or indemnitor under the Loan or any other Person liable for the payment of the Debt and whose appointment Borrower expressly consents to take possession of and to operate the Property, to collect the Rents and to otherwise protect and preserve the Property;

(h) the license granted to Borrower under Section 1.2 of this Security Instrument shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion: (i) Taxes and Other Charges; (ii) insurance premiums; (iii) interest on the unpaid principal balance of the Note; (iv) amortization of the unpaid principal balance of the Note; (v) all other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(j) surrender the insurance policies maintained pursuant to the Loan Agreement, collect the unearned insurance premiums for such insurance policies and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such insurance premiums;

(k) apply the undisbursed balance of any deposit made by Borrower with Lender in connection with the restoration of the Property after a casualty thereto or condemnation thereof, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion; and/or

(l) pursue such other remedies as Lender may have under Applicable Law.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section to the contrary, if any Event of Default as described in Section 10.1(g) of the Loan Agreement shall occur (with respect to Borrower only), the entire unpaid Debt shall be automatically due and payable, without any further notice, demand or other action by Lender.

Section 8.2. Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 8.3. Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make any payment or do any act required of Borrower hereunder in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 8.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at any default rate specified in the Loan Agreement, if any (the "**Default Rate**"), for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender.

Section 8.4. Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 8.5. Recovery of Sums Required To Be Paid. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

Section 8.6. Other Rights, etc. (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note, the Loan Agreement or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument, the Loan Agreement or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in the value of the Property, for failure to maintain the insurance policies required to be maintained pursuant to the Loan Agreement, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 8.7. Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 8.8. Right of Entry. Upon reasonable notice to Borrower, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

Section 8.9. Bankruptcy. (a) Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code (defined below).

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender not less than ten (10) days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Borrower within such ten-day period a notice stating that (i) Lender demands that Borrower assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

Section 8.10. Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such

former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of the Other Obligations.

#### Article 9 - ENVIRONMENTAL HAZARDS

Section 9.1. Environmental Covenants. Borrower has provided representations, warranties and covenants regarding environmental matters set forth in the Environmental Indemnity and Borrower shall comply with the aforesaid covenants regarding environmental matters.

#### Article 10 - WAIVERS

Section 10.1. Marshalling and Other Matters. Borrower hereby waives, to the extent permitted by law, the benefit of all Applicable Law now or hereafter in force regarding appraisal, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all Persons to the extent permitted by Applicable Law.

Section 10.2. Waiver of Notice. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or the Loan Agreement specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not permitted by Applicable Law to waive its right to receive notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 10.3. Sole Discretion of Lender. Whenever pursuant to this Security Instrument, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

Section 10.4. Waiver of Trial by Jury. **BORROWER AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND LENDER.**

Section 10.5. Waiver of Foreclosure Defense. Borrower hereby waives any defense Borrower might assert or have by reason of Lender's failure to make any tenant or lessee of the Property a party defendant in any foreclosure proceeding or action instituted by Lender.

#### Article 11 - LENDER AND NOTICES

Section 11.1. Failure to Act. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the failure of Lender to take any action hereunder or under any other Loan Document shall not (i) be deemed to be a waiver of any term or condition of this Security Instrument or any of the other Loan Documents, (ii) adversely effect any rights of Lender hereunder or under any other Loan Document and (iii) relieve Borrower of any of Borrower's obligations hereunder or under any other Loan Document.

Section 11.2. Notices. All notices or other written communications hereunder shall be delivered in accordance with the applicable terms and conditions of the Loan Agreement.

Notices to Borrower shall be sent as follows:

Ohio Commons LLC  
351 W. Chicago Avenue  
Chicago, Illinois 60654  
Attention: Erik Larson  
Facsimile No.: (312) 506-3278

with a copy to:

Brotschul Potts LLC  
203 W. Monroe, Suite 230  
Chicago, Illinois 60606  
Attention: Matthew B. Brotschul, Esq.  
Facsimile No.: (312) 277-3278

Notices to Lender shall be sent as follows:

Wells Fargo Bank, National Association  
1901 Harrison Street, 2nd Floor  
MAC A0227-020  
Oakland, California 94612  
Attention: Commercial Mortgage Servicing  
Facsimile No.: (866) 359-5352

with a copy to:

Winstead PC  
201 North Tryon Street, Suite 2000  
Charlotte, North Carolina 28202  
Attention: David Iacuzio, Esq.  
Facsimile No.: (704) 339-1701

### Article 12 - APPLICABLE LAW

Section 12.1. Governing Law. This Security Instrument shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Property is located and Applicable Laws of the United States of America.

Section 12.2. Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

### Article 13 - DEFINITIONS

Section 13.1. General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any of Lender's successors and assigns," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument", the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

### Article 14 - MISCELLANEOUS PROVISIONS

Section 14.1. No Oral Change. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower, Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 14.2. Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 14.3. Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

Section 14.4. Headings, etc. The headings and captions of various sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 14.5. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 14.6. Entire Agreement. This Security Instrument and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written, are superseded by the terms of this Security Instrument and the other Loan Documents.

Section 14.7. Limitation on Lender's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

### Article 15 - STATE-SPECIFIC PROVISIONS

Section 15.1. Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 15 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 15 shall control and be binding.

Section 15.2. This Security Instrument is hereby entitled "Mortgage, Security Agreement and Fixture Filing". The following legend is hereby added to the first page hereof:

"THIS INSTRUMENT IS EFFECTIVE AND SHALL REMAIN EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS WHICH ARE OR ARE TO BECOME FIXTURES ON THE REAL ESTATE HEREIN DESCRIBED AND IS TO BE FILED FOR RECORD OR REGISTERED IN THE REAL ESTATE RECORDS OF COOK COUNTY, ILLINOIS. THE MAILING ADDRESS OF LENDER AND THE ADDRESS OF BORROWER ARE SET FORTH WITHIN. A PHOTOGRAPHIC OR OTHER REPRODUCTION OF THIS INSTRUMENT OR ANY FINANCING STATEMENT RELATING TO THIS INSTRUMENT SHALL BE SUFFICIENT AS A FINANCING STATEMENT."

Section 15.3. THE FOLLOWING NOTICE IS GIVEN PURSUANT TO THE ILLINOIS COLLATERAL PROTECTION ACT. AS USED HEREIN, THE TERMS "YOU" AND "YOUR" SHALL REFER TO BORROWER AND THE TERMS "WE" AND "US" SHALL REFER TO LENDER. UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING US WITH EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.



Section 15.4. In the first Recital on page 1 hereof, the following is hereby inserted at the end of the provision after the words “referred to as the “Note””:

“in the original principal amount of \$2,300,000.00 accruing interest at the Interest Rate of five and three tenths percent (5.30%) in accordance with the terms and provisions of the Loan Agreement, which Note provides, among other things, for final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on May 1, 2024.”

Section 15.5. The Loan secured hereby shall in no event exceed an amount equal to two hundred percent (200%) of the face amount of the Note.

Section 15.6. Borrower hereby waives, to the extent now or hereafter permitted by law, all rights of redemption and reinstatement of this Security Instrument pursuant to the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 *et seq.* (“**IMFL**”), including without limitation Section 15-1601(b) of IMFL, on behalf of itself and all those taking by, through or under Borrower. Borrower acknowledges that the Property does not constitute “agricultural real estate,” as such term is defined in Section 15-1201 of IMFL or “residential real estate,” as such term is defined in Section 15-1219 of IMFL.

Section 15.7. In the event that any provision of this Security Instrument shall be inconsistent with any provision of IMFL, the provisions of IMFL shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with IMFL. If any provision of this Security Instrument shall grant to Lender any rights or remedies upon any Event of Default by Borrower which are more limited than the rights that would otherwise be vested in Lender under IMFL in the absence of said provision, Lender shall be vested with the rights granted in IMFL to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under IMFL, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, shall be added to the Loan secured by this Security Instrument or by the judgment of foreclosure.

Section 15.8. Borrower shall include a “no lien” provision in any property management agreement hereafter entered into by Borrower with a property manager for the Property, whereby the Property manager waives and releases any and all mechanics’ lien rights that the Property manager, or anyone claiming through or under the Property manager, may have pursuant to 770 ILCS 60/1.

Section 15.9. (a) This Security Instrument also constitutes a financing statement for the purpose of Section 9-502 of the Illinois Uniform Commercial Code, 810 ILCS 5/9-502, and shall constitute a “fixture filing” under such statute and shall be filed in the real estate records of Cook County, Illinois.

Name of Debtor:	OHIO COMMONS LLC, an Illinois limited liability company
Debtor’s Mailing Address:	351 W. Chicago Avenue, Chicago, Illinois 60654
Address of Property:	5001-5005 South Drexel Boulevard/909-919 East 50 <sup>th</sup> Street, Chicago, Illinois 60615
Name of Secured Party:	WELLS FARGO BANK, NATIONAL ASSOCIATION

Address of Secured Party: Wells Fargo Center, 1901 Harrison Street, 2nd Floor,  
Oakland, California 94612

This financing statement covers the following types or items of property: the Property described in this instrument, and all other items of personal property and fixtures now or at any time hereafter owned by Borrower and used in connection with the Property.

(b) Some of the above goods are or are to become fixtures on the Property described herein. Borrower is the record owner of the Property described herein upon which the foregoing fixtures and other items and types of property are located. The Land to which the fixtures and other Property relates is described in Exhibit A attached hereto and made a part hereof.

Section 15.10. Borrower covenants and agrees that all of the proceeds of the Loan secured by this Security Instrument will be used solely for business purposes and in furtherance of the regular business affairs of Borrower, and the entire principal obligation secured hereby constitutes: (i) a "business loan," as that term is used in, and for all purposes of, the Illinois Interest Act, 815 ILCS 205/0.01 et seq., including Section 4(1)(c) thereof; and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of Section 205/4(1)(l) thereof.

Section 15.11. All agreements between Borrower and Lender (including, without limitation, those contained in this Security Instrument, the Note and any other Loan Documents) are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to Lender exceed the highest lawful rate of interest permissible under the laws of the State of Illinois. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other documents securing the Loan, at the time performance of such provision shall be due, shall involve the payment of interest exceeding the highest rate of interest permitted by law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the highest lawful rate of interest permissible under the laws of the State of Illinois; and if for any reason whatsoever, Lender shall ever receive as interest an amount which would be deemed unlawful, such interest shall be applied to the payment of the last maturing installment or installments of the Loan secured hereby (whether or not then due and payable) and not to the payment of interest.

Section 15.12. Wherever provision is made in this Security Instrument or the Loan Agreement for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Lender, or to confer authority upon Lender to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure all such rights and powers of Lender shall continue in Lender as judgment creditor or mortgagee until confirmation of sale.

Section 15.13. (a) All advances, disbursements and expenditures made by Lender before and during a foreclosure of this Security Instrument, and before and after judgment of foreclosure therein, and at any time prior to sale of the Property, and, where applicable, after sale of the Property, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Security Instrument or the Loan Agreement or by IMFL (collectively "**Protective Advances**") shall have the benefit of all applicable provisions of IMFL, including those provisions of IMFL hereinbelow referred to:

(i) all advances by Lender in accordance with the terms of this Security Instrument to: (1) preserve or maintain, repair, restore or rebuild the Improvements upon the Property; (2) preserve the lien of this Security Instrument or the priority thereof; or (3) enforce this Security Instrument, as referred to in Subsection (b)(5) of Section 15-1302 of IMFL;

(ii) payments by Lender of: (1) when due installments of principal, interest or other obligations in accordance with the terms of any prior lien or encumbrance; (2) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (3) other obligations authorized by Lender; or (4) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of IMFL;

(iii) advances by Lender in settlement or compromise of any claims asserted by claimants under any prior liens;

(iv) attorneys' fees and other costs incurred: (1) in connection with the foreclosure of this Security Instrument as referred to in Sections 15-1504(d)(2) and 15-1510 of IMFL; (2) in connection with any action, suit or proceeding brought by or against Lender for the enforcement of this Security Instrument or arising from the interest of Lender hereunder; or (3) in the preparation for the commencement or defense of any such foreclosure or other action related to this Security Instrument or the Property;

(v) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of IMFL;

(vi) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of IMFL;

(vii) expenses incurred and expenditures made by Lender for any one or more of the following: (1) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof which are required to be paid; (2) if Lender's interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (3) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Lender takes possession of the Property imposed by Subsection (c)(1) of Section 15-1704 of IMFL; (4) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (5) payments required or deemed by Lender to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (6) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (7) if the loan secured hereby is a construction loan, costs incurred by Lender for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (8) pursuant to any lease or other agreement for occupancy of the Improvements for amounts required to be paid by Borrower; and (9) if this Security Instrument is insured, payments of FHA or private mortgage insurance required to keep insurance in force.

(b) All Protective Advances shall be additional Debt secured by this Security Instrument, and shall become immediately due and payable without notice and with interest thereon from the date of the advance thereof until paid at the rate due and payable after an Event of Default under the terms of the Note and the Loan Agreement.

(c) This Security Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to Subsection (b) of Section 15-1302 of IMFL.

(d) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of IMFL, apply to and be included in:

(i) determination of the amount of Debt secured by this Security Instrument at any time;

(ii) the Debt found due and owing pursuant to this Security Instrument in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional Debt becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) if right of redemption has not been waived by Borrower in this Security Instrument, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 15-1603 of IMFL;

(iv) determination of the amount deductible from sale proceeds pursuant to Section 15-1512 of IMFL;

(v) application of income in the hands of any receiver or mortgagee in possession; and

(vi) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 15-1508 and Section 15-1511 of IMFL.

(e) In addition to any provision of this Security Instrument authorizing Lender to take or be placed in possession of the Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 15-1701 and 15-1702 of IMFL, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Security Instrument, all powers, immunities, and duties as provided for in Sections 15-1701 and 15-1703 of IMFL.

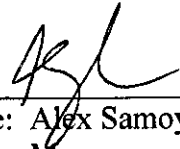
**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, this Security Instrument has been executed by the undersigned as of the day and year first above written.

**BORROWER:**

**OHIO COMMONS LLC, an Illinois limited liability company**

**By: Cedar Street Capital Partners LLC,  
a Delaware limited liability company,  
its Managing Member**

**By:**   
Name: Alex Samoylovich  
Title: Manager

Mortgage (Drexel Apartments)

ACKNOWLEDGMENT

STATE OF ILLINOIS

COUNTY OF COOK

This instrument was acknowledged before me on April 8, 2014, by Alex Samoylovich, the Manager of Cedar Street Capital Partners LLC, a Delaware limited liability company, the Managing Member of OHIO COMMONS LLC, an Illinois limited liability company, on behalf of said limited liability company.



Scott G. Perdue  
Notary Public

Printed Name: SCOTT G. PERDUE

My Commission Expires:

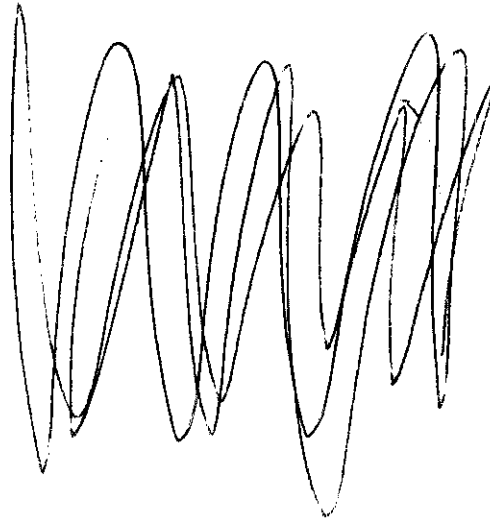
4/26/2017

Mortgage (Drexel Apartments)

**EXHIBIT A**

**LEGAL DESCRIPTION**

[See Attached]



STREET ADDRESS: 5001 S DREXEL <sup>400-15</sup>  
CITY: CHICAGO COUNTY: COOK  
TAX NUMBER: 20-11-114-001-0000

**LEGAL DESCRIPTION:**

LOTS 9 AND 10 IN THE SUBDIVISION OF LOTS 1 TO 4 INCLUSIVE IN BLOCK 8 IN DREXEL AND SMITH'S SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CLIKALD