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Cook County Recorder 31.50



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RECAPTURE

RECAPTURE AGREEMENT

PREPARED BY:
VILLAGE OF ARLINGTON HEIGHTS, PLANNING DEPT.
33 SO. ARLINGTON HEIGHTS ROAD
ARLINGTON HEIGHTS, ILLINOIS 60005

MAIL TO:
VILLAGE OF ARLINGTON HEIGHTS, PLANNING DEPT.
33 SO. ARLINGTON HEIGHTS ROAD
ARLINGTON HEIGHTS, ILLINOIS 60005



ATGF, INC.

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6/31

**RECAPTURE AGREEMENT
(EXHIBIT A TO HOMEBUYER PROGRAM AGREEMENT)**

**This document was prepared by
and after recording should be
returned to:**

Village of Arlington Heights
33 S. Arlington Heights Road
Arlington Heights, IL 60005
Attn: Planning Department

RECAPTURE AGREEMENT

(The above space for Recorder's use only)

THIS RECAPTURE AGREEMENT (the "Agreement"), dated as of the **22nd day of August, 2001** by and between **Thomas E. O'Doherty** (the "Owner"), whose address is **1210 N. Dale Avenue, #2J, Arlington Heights, IL** and the Village of Arlington Heights, an Illinois municipal corporation (the "Sponsor"), having its principal office at 33 S. Arlington Heights Road, Arlington Heights, IL 60005.

WITNESSETH:

WHEREAS, the Owner is or will be the holder of legal title to certain real estate on which a single family residence (the "Residence") is located, commonly known as **1210 N. Dale Avenue, #2J, Arlington Heights, Cook County, Illinois**. The real estate is legally described on Exhibit A attached hereto and by this reference made apart hereof; and

WHEREAS, pursuant to that certain Homebuyer Program Agreement dated as of the date hereof between the Owner and the Sponsor (the "Homebuyer Program Agreement"), the Sponsor has agreed to make a forgivable loan to the Owner in the amount of **Fourteen Thousand Nine Hundred Ninety-Nine and 00/100 Dollars (\$14,999.00)**, as evidenced by that certain note in said amount (the "Loan") to be used with such other monies as Owner may provide, if any, to acquire the Residence; and

WHEREAS, as an inducement to the Sponsor to make the Loan, the Owner has agreed to enter into this Agreement in accordance with the terms, conditions and covenants set forth below.

NOW, THEREFORE, the parties hereto covenant and agree as follows:

1. Incorporation. The foregoing recitals are made a part of this Agreement as fully and with the same force and effect as repeated herein at length.
2. Restrictions. As a condition of the provision of the Loan, the Owner agrees to repay to the Sponsor the Repayment Amount (as hereinafter defined) upon the earliest to occur, within the Recapture Period (as hereinafter defined), of the following (each, a "**Recapture Event**"): (i) a sale, conveyance or other transfer of the Residence for consideration, excluding any sale, conveyance or transfer (A) to a spouse upon dissolution of marriage, (B) to the surviving spouse upon the death of a joint tenant Homebuyer, (C) by will, (D) by foreclosure or deed in lieu of foreclosure or other wise by operation of law; or (ii) the Residence is no longer the Owner's principal residence or is converted in whole or in part to a rental unit; or (iii) the refinancing of the first mortgage, if any, encumbering the Residence during the Loan term, except for a Permitted Refinancing (as hereinafter defined); or (iv) there exists a default by the Owner, beyond any applicable cure period, under the Homebuyer Program Agreement or any other Loan Documents (as defined in the Homebuyer Program Agreement). For purposes of this paragraph, the "**Recapture Period**" shall mean five (5) years from the date hereof. In the event of such Recapture Event, Owner shall repay to the Sponsor an amount (the "**Repayment Amount**") equal to the unforgiven portion of the Loan, as set forth below; provided that, with respect to any sale, conveyance or transfer described in clause (i) above, the Loan shall be repaid only from the "net proceeds," if any, of such sale, conveyance or transfer, and any portion of the Repayment Amount in excess of such "net proceeds" shall be forgiven. For purposes of this subparagraph, "**net proceeds**" shall mean the proceeds of sale minus documented capital improvement costs incurred by the Homebuyer, principal payments and the Homebuyer's initial contribution to the cost of acquiring the Residence. If non of the events described in clauses (i), (ii), (iii) or (iv) above occurs prior to the expiration of the Recapture Period, or if any sale conveyance or transfer of the Residence occurs due to foreclosure of deed in lieu of foreclosure as aforesaid, the Loan shall be forgiven in its entirety. Absent a Recapture Event, one sixtieth (1/60th) of the original principal balance of the Loan shall be forgiven at the end of each full month of the Loan. As used herein, the term "**Permitted Refinancing**" shall mean a refinancing to lower the interest rate, decrease the loan term or lower the monthly payment of such first mortgage loan, but not a refinancing that increases the outstanding balance of such first mortgage loan, increases the interest rate or by any other means reduces borrower equity in the Residence or increases borrower obligations. Any permitted Refinancing must be approved by the Sponsor, in writing, in advance.
3. Violation of Agreement by Owner. Upon the Owner's failure to make any payment due under this Agreement, the Sponsor shall give written notice thereof, as provided in Paragraph 13 of the Homebuyer Program Agreement. If payment is not made within such further time as the Sponsor in its sole discretion permits, but not more than thirty (30) days, or if there exists any default under any other Loan Document, the Sponsor may declare a default under this Agreement effective on the date of such

declaration of default and notice thereof to the Owner, and upon such default the Sponsor may:

- (a) Declare the unforgiven portion of the Loan immediately due and payable; and/or
- (b) Exercise such other rights or remedies as may be available to the Sponsor hereunder, at law or in equity.

The Sponsor's remedies are cumulative and the exercise of one shall not be deemed an election of remedies, nor foreclose the exercise of the Sponsor's other remedies.

- 4. Amendment. This Agreement shall not be altered or amended except in a writing signed by the parties hereto.
- 5. Partial Invalidation. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.
- 6. Gender. The use of the plural in this Agreement shall include the singular; the singular shall include the plural; and the use of any gender shall be deemed to include all genders.
- 7. Captions. The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of the agreement.
- 8. **WAIVER OF JURY TRIAL. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE LOAN OR THIS AGREEMENT.**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year above first written.

OWNER: Thomas E. O'Doherty
Thomas E. O'Doherty

SPONSOR:

VILLAGE OF ARLINGTON HEIGHTS

BY: William C. Dixon
William C. Dixon

ITS: Village Manager

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Maria M. Croy, a Notary Public in and for said county and state, do hereby certify that William C. Dixon, personally known to me to be the same person whose name is subscribed to the foregoing instrument as Village Manager of the Village of Arlington Heights, an Illinois municipal corporation, appeared before me this day in person, and acknowledged that signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 16th day of August, 2001.



My commission expires: _____

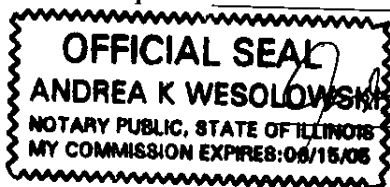
Maria M. Croy, Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, THE UNDERSIGNED, a Notary Public in and for said county and state, do hereby certify that Thomas E. O'Doherty, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22 day of August, 2001.

My commission expires: _____



[Signature], Notary Public

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COOK COUNTY CLERK'S OFFICE
JAN 20 2010 10 10 AM
100 N. LAUREL ST. CHICAGO, IL 60602
TEL: 312.603.4000 FAX: 312.603.4001
WWW.COOKCOUNTYCLERK.COM

EXHIBIT A

Legal Description

Unit 6-2"J" together with its undivided percentage interest in the common elements in Brandenberry Park East Condominium as delineated and defined in the Declaration of Condominium as Document Number 25108489, as amended from time to time, in the Southeast $\frac{1}{4}$ of Section 21, Township 42 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois.

Common Address: 1210 N. Dale Avenue, #2J, Arlington Heights, IL 60004
Permanent Index No.: 03-21-402-014-1189

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