

# UNOFFICIAL COPY

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## AGREEMENT OF RELEASE AND ASSUMPTION OF MORTGAGE NOTE AND MORTGAGE

THIS AGREEMENT, entered into as of the first day of December, 1994, by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991, AND KNOWN AS TRUST NO. 114032-01 (hereinafter referred to as "Transferor"), JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO (hereinafter referred to as the "Original Beneficiary"), LASALLE NATIONAL TRUST, N.A., NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER AMENDED AND RESTATED TRUST AGREEMENT DATED AS OF JULY 20, 1994 AND KNOWN AS TRUST NO. 118826 (hereinafter referred to as "Transferee") KEIRO BUILDING, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY (hereinafter referred to as the "Beneficiary") and RELATED MORTGAGE CORPORATION, a corporate body organized and existing under the laws of the State of Delaware (hereinafter referred to as the "Mortgagee").

COOK COUNTY RECORDER  
 T 0003 TRAN 9839 12/13/94 12:07:00 \$37.00  
 4948 HIS \* -04-039273

WITNESSETH:

WHEREAS, the Mortgagee is the owner and holder of a certain Mortgage Note dated June 24, 1991 (hereinafter referred to as the "Note") executed and delivered by the Transferor as evidence of a mortgage loan (hereinafter referred to as the "Mortgage Loan") in the original amount of \$6,502,900.00 with interest at the rate of 9.80% per annum on the unpaid balance until paid; and

WHEREAS, the Note is secured by that certain Mortgage of even date therewith which Mortgage was filed for record on June 25, 1991 as Document No. 91309622 in Cook County, Illinois (hereinafter referred to as the "Mortgage"), pertaining to certain real property in Cook County, Illinois, and identified as Federal Housing Administration (hereinafter referred to as "FHA") Project No. 071-43134 (hereinafter referred to as the "Property" and which is described on Exhibit A attached hereto and made a part hereof); and

WHEREAS, the Mortgage Loan was insured by the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner (hereinafter referred to as the "Secretary") pursuant to Section 232 of the National Housing Act, as amended, and the Regulations thereunder promulgated by the Department of Housing and Urban Development (hereinafter referred to as the "HUD Regulations"); and

WHEREAS, in connection with the insurance of the Mortgage Loan by the Secretary, the Transferor and Original Beneficiary entered into a certain Regulatory Agreement for Housing for the Elderly-Non Profit Nursing Home and/or Intermediate Care Facility-Non Profit by and between the Transferor, Original Beneficiary and the Secretary dated June 24, 1991 and filed for record on June 25, 1991 as Document No. 91309623 in Cook County, Illinois (hereinafter called the "Original Regulatory Agreement").

NOW, THEREFORE, in consideration of the consent of the Secretary to the sale of the Project by the Transferor to the Transferee, and in order to comply with the requirements of the HUD Regulations, the parties hereto hereby agree as follows:

Section 1. Effective as of the date of recordation of the deed conveying title to the Project to the Transferee and the recordation of this Agreement (hereinafter referred to as the "Effective Date"), and except as limited below, the Transferee hereby assumes and agrees to be bound by and to perform, keep and observe all of the obligations, duties, liabilities, covenants and agreements of the Transferor under and pursuant to the Note and the Mortgage (hereinafter referred to as the "Transfer Documents"). The Transferee and the Beneficiary acknowledge that upon default under the Regulatory Agreement for Multifamily Housing Projects (hereinafter referred to as the "Regulatory Agreement") dated of even date herewith by and between the Transferee, Beneficiary and the Secretary as specified therein, the Secretary may declare the Mortgage and the Note to be in default and the whole of the indebtedness secured hereby to be due and payable.

The Transferee and the Beneficiary and their officers, directors and shareholders do not and shall not assume personal liability for payments due under the Note, Mortgage, Regulatory Agreement or the other documents being assigned to the Transferee and which are identified in Exhibit "B" attached hereto and made a part hereof (hereinafter referred to as the "Other Transfer Documents") or for matters not under their control, provided that the Transferee and Beneficiary shall remain liable only with respect to the matters hereinafter stated, namely:

- a. for funds or property of the Project coming into their hands which, by the provisions thereof, they are not entitled to retain; and
- b. for their own acts and deeds or acts and deeds of others which they have

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Box 430

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authorized in violation of the provisions thereof.

The Transferee hereby agrees to be bound by the Mortgage, Note, and Other Transfer Documents, subject to the foregoing limitation of personal liability to the same extent as if it had been an original party to said instruments.

Section 2. Effective as of the Effective Date, the Mortgagee hereby relieves and releases the Transferor from any further obligations, duties, responsibilities, covenants and agreements under the Note and Mortgage, provided, however, that nothing herein contained shall in any manner alter, waive, annul, vary, compromise, impair, prejudice or affect any right the Secretary may have to seek recourse against the Transferor and the Original Beneficiary but not the Transferee of the Property for any breach of the Original Regulatory Agreement that may have occurred prior to the Effective Date.

Section 3. The Transferee agrees that it shall comply fully with: (a) the provisions of any laws prohibiting discrimination in housing on the basis of race, color, creed, sex or national origin; and (b) the Regulations of HUD providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with such provisions shall be a proper basis for the Secretary to take any corrective action he may deem necessary, including but not limited to, the rejection of future applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the Transferee is identified; and further, the Secretary shall have a similar right of corrective action with respect to (i) any individuals who are officers, directors, principal stockholders, trustees, managers, partners or associates of the Transferee; and (ii) any corporation or any other type of business association or organization with which the officers, directors, principal stockholders, trustees, managers, partners or associates of the Transferee may be identified.

Section 4. Nothing herein shall in anywise impair the Note or the security now held for said indebtedness, or alter, waive, annul, vary or affect any provision, condition or covenant herein, nor affect or impair any rights, powers, or remedies under the Note, and the Mortgage, it being the intent of the parties hereto that the terms and provisions of said Note and Mortgage shall continue in full force and effect.

Section 5. All of the terms, covenants, conditions and agreements hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Prepared by:  
Robert J. Katz  
1990 M Street NW  
Suite 410  
Washington, DC 20036

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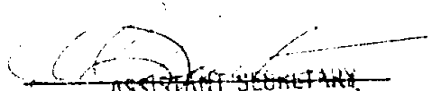
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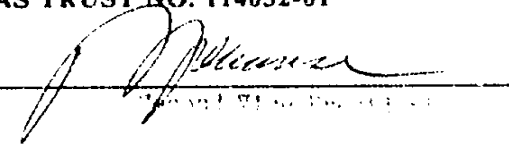
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

ATTEST:

SUBJECT TO THE EXCULPATORY PROVISIONS ATTACHED HERETO AND MADE A PART HEREOF

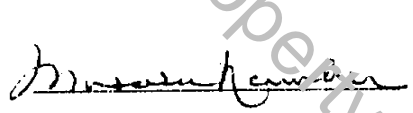
AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991, AND KNOWN AS TRUST NO. 114032-01

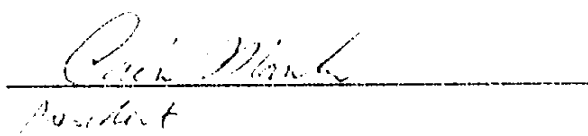
  
ASSISTANT SECRETARY

By: 

ATTEST:

JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO

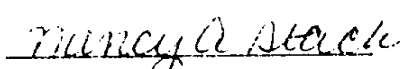


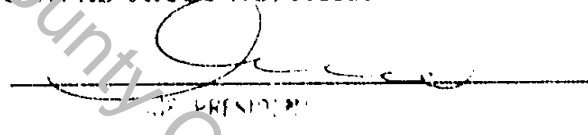
By:   
President

ATTEST:


SUBJECT TO THE EXCULPATORY PROVISIONS ATTACHED HERETO AND MADE A PART HEREOF

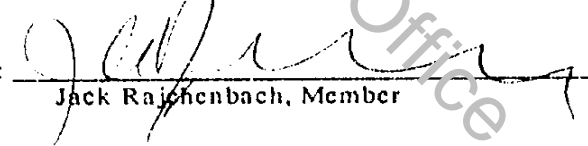
LASALLE NATIONAL TRUST, N.A., NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER AMENDED AND RESTATED TRUST AGREEMENT DATED AS OF JULY 20, 1994 AND KNOWN AS TRUST NO. 118826

  
ASSISTANT SECRETARY

By:   
VICE PRESIDENT

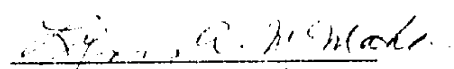
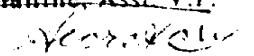
KEIRO BUILDING, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY

By:   
Bernard Hoffender, Member

By:   
Jack Rajchenbach, Member

ATTEST:

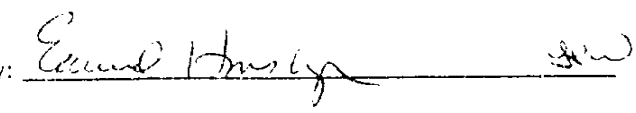
RELATED MORTGAGE CORPORATION

  
Bobb Chahine, Asst. V.P.  


By:   
Bruce Brown, Vice President

APPROVED BY:

SECRETARY OF HOUSING AND URBAN DEVELOPMENT ACTING BY AND THROUGH THE FEDERAL HOUSING COMMISSIONER

By: 

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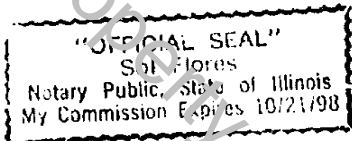
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STATE OF ILLINOIS )  
 )SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY THAT Robert Johannesen and Anita M. Lukus of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01, personally known to me to be the SECOND VICE PRESIDENT and ASSISTANT SECRETARY, respectively, of said Bank, as Trustee as aforesaid, and whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they executed the foregoing instrument and caused the corporate seal of said Bank, as Trustee as aforesaid, to be affixed thereto as their free and voluntary act and as the free and voluntary act and deed of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 9 day of December, 1994.

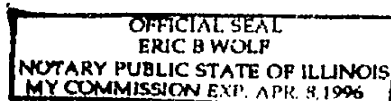


Sol Flores  
Notary Public

STATE OF ILLINOIS )  
 )SS  
COUNTY OF COOK )

I, a Notary Public, in and for the County, in the State aforesaid, do hereby certify that Culwin Menchie and Merrin Daulton personally known to me to be the same persons whose names are respectively as President and Secretary of JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO, a corporation of the State of Illinois, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they, being thereunto duly authorized, signed, sealed with the corporate seal, and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 9th day of December, 1994.



Eric B Wolf  
Notary Public

STATE OF ILLINOIS )  
 )SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY THAT \_\_\_\_\_ and FRANCY A. STACY of LASALLE NATIONAL TRUST, N.A., NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER AMENDED AND RESTATED TRUST AGREEMENT DATED AS OF JULY 20, 1994 AND KNOWN AS TRUST NO. 118826, personally known to me to be the VICE PRESIDENT and ASSISTANT SECRETARY, respectively, of said Bank, as Trustee as aforesaid, and whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they executed the foregoing instrument and caused the corporate seal of said Bank, as Trustee as aforesaid, to be affixed thereto as their free and voluntary act and as the free and voluntary act and deed of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 9th day of December 1994.

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

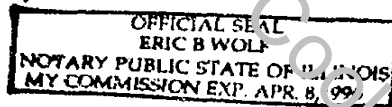
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STATE OF ILLINOIS                    )  
  )SS  
COUNTY OF COOK                    )

I, a Notary Public, in and for the County, in the State aforesaid, do hereby certify that BERNARD HOLLANDER and JACK RAJCHENBACH, personally known to me to be the same persons whose names are respectively as Members of KEIRO BUILDING, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, a corporation of the State of Illinois, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they, being thereunto duly authorized, signed, sealed with the corporate seal, and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 27<sup>th</sup> day of December, 1994.



Eric B. Wolf  
Notary Public

STATE OF NEW YORK                    )  
  )SS:  
COUNTY OF NEW YORK                )

On this 8 day of December, 1994 before me personally came Bruce Brown, to me known, who being by me duly sworn, did depose and say that he resides at 625 Madison Avenue, New York, NY 10022 that he is a Vice President of RELATED MORTGAGE CORPORATION, the Corporation described in and which executed the above instrument; that he knows the seal of said Corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year last above written.

Noelle Gilkinson  
Notary Public

NOELLE GILKINSON  
Notary Public, State of New York  
No. 30-472931  
Qualified in Nassau County  
Certificate Filed in New York County  
Commission Expires 2/28/95

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## EXHIBIT A

### LEGAL DESCRIPTION

#### FEDERAL HOUSING ADMINISTRATION

PROJECT NO. 071-43134

#### JASC KEIRO NURSING HOME

*Parcel A*

that part of the east 320.00 feet of the west 660.00 feet of the south west 1/4 of Section 11, Township 40 North, Range 13 East of the 3rd Principal Meridian, which lies north of the following described line: beginning at a point on the east line of said tract, 433.50 feet south of the north east corner thereof; thence west parallel with the north line of said tract, 299.35 feet; thence north at right angles to the last described line, 58.00 feet to a point which is 299.00 feet west of the east line of said tract and 375.00 feet (375.50 feet measure) south of the north line thereof (as measured on the west line of said tract); thence west parallel with the north line thereof (as measured on the west of said tract); thence west parallel with the north line of said tract, 21.00 feet to the west line of said tract (except the east 33.00 feet of said tract dedicated for N. Springfield Avenue), City of Chicago, Cook County, Illinois

*Sometimes Known As*

Institutional Planned Development No. 415

*Parcel B*

easement for storm drainage and sanitary sewer over, under, through, and across the south 10.00 feet of the north 60.00 feet of the west 340.00 feet of the south west 1/4 of Section 11, Township 40 North, Range 13 East of the 3rd Principal Meridian, lying easterly of the center line of the North Branch of the Chicago River, in Cook County, Illinois as created by easement agreement recorded June 25, 1991, in the Cook County Recorder of Deeds Office as Document No. 91309621

*Parcel C*

easement for storm drainage and sanitary sewer over, under, through, and across the south 20.00 feet of the north 375.00 feet of the east 300.00 feet of the west 340.00 feet of the south west 1/4 of Section 11, Township 40 North, Range 13 East of the 3rd Principal Meridian, lying easterly of the center line of the North Branch of the Chicago River, in Cook County, Illinois as created by easement agreements recorded June 25, 1991, and November 14, 1994, in the Cook County Recorder of Deeds Office as Document Nos. 91309621 and 94964770

PIN 13-11-300-007

3919 W. Foster Ave, Chicago 60625

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## EXHIBIT B TO AGREEMENT OF RELEASE AND ASSUMPTION OF MORTGAGE NOTE AND MORTGAGE

1. Building Loan Agreement by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 and RELATED MORTGAGE CORPORATION
2.
  - a. First Amendment to Security Agreement by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01, RELATED MORTGAGE CORPORATION and the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner
  - b. Security Agreement by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 and RELATED MORTGAGE CORPORATION
3.
  - a. Amendment to Financing Statements from AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 to RELATED MORTGAGE CORPORATION to be filed with the:
    - i. Recorder of Deeds of Cook County, Illinois; and
    - ii. Secretary of State of the State of Illinois
  - b. Financing Statements from AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 to RELATED MORTGAGE CORPORATION filed with the:
    - i. Recorder of Deeds of Cook County, Illinois; and
    - ii. Secretary of State of the State of Illinois
4.
  - a. First Amendment to Security Agreement by and between JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO, RELATED MORTGAGE CORPORATION and the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner
  - b. Security Agreement by and between JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO and RELATED MORTGAGE CORPORATION
5.
  - a. Amendment to Financing Statements from JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO to RELATED MORTGAGE CORPORATION to be filed with the:
    - i. Recorder of Deeds of Cook County, Illinois; and
    - ii. Secretary of State of the State of Illinois
  - b. Financing Statements from JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO to RELATED MORTGAGE CORPORATION filed with the:
    - i. Recorder of Deeds of Cook County, Illinois; and
    - ii. Secretary of State of the State of Illinois
6. Construction Contract - Cost Plus by and between A.J. MAGGIO, CO. and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01
7. Performance Bond - Dual Oblige with A.J. MAGGIO CO. as Principal UNITED

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STATES FIDELITY AND GUARANTEE COMPANY as Surety AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO as Owner - Obligee, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER AMENDED AND RESTATED TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 and RELATED MORTGAGE CORPORATION as Lender

8. Payment Bond - Dual Obligee with A.J. MAGGIO CO. as Principal United States Fidelity and Guarantee Company as Surety AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 as Owner
9. Standard Form of Agreement Between Owner and Supervisory Architectural Services for Housing Services by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 1991 AND KNOWN AS TRUST NO. 114032-01 and NAKAWATASE, WYNS & ASSOCIATES, INC. with respect to Design Architectural Services for Jasc Keiro Nursing Home
10. Abbreviated Form of Agreement between Owner and Contractor for Construction Projects of Limited Scope by and between JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO and A.J. MAGGIO CO. regarding the installation of the offsite facilities required for Jasc Keiro Nursing Home
11. Escrow Agreement Additional Contribution by and between JAPANESE AMERICAN SERVICE COMMITTEE OF CHICAGO as Sponsors of Jasc Keiro Nursing Home and RELATED MORTGAGE CORPORATION with attached Letter of Credit in the amount of \$440,643.00 issued to fund said Escrow Agreement Additional Contribution by Sponsors

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**AFTER RECORDING PLEASE RETURN TO:**

**ROBERT J. KATZ, P.C.**

**1990 M Street NW**

**Suite 410**

**Washington, DC 20036**

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