

UNOFFICIAL COPY



This document prepared by and
after recording return to:

Marcus M. Lee, Esq.
Bell, Boyd & Lloyd LLP
70 West Madison
Suite 3100
Chicago, Illinois 60602

Doc#: 0727439113 Fee: \$40.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/01/2007 03:37 PM Pg: 1 of 9

AMENDMENT TO LOAN DOCUMENTS

This AMENDMENT TO LOAN DOCUMENTS (the "Amendment") is made as of September 26, 2007, by and among BANK LEUMI USA, a New York chartered bank ("Lender"), SHERWIN MANOR REALTY, LLC, an Illinois limited liability company, and SHERWIN MANOR NURSING CENTER LLC, an Illinois limited liability company (collectively, "Borrower"), ABE OSINA and JOSEPH OSINA (collectively, "Guarantor").

Recitals

A. Lender has heretofore made a loan ("Loan") to Borrower in the principal amount of FIVE MILLION DOLLARS (\$5,000,000), as evidenced by that certain Promissory Note dated September 4, 2006, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note").

B. The Note is secured by, among other things, each dated as of September 25, 2006, (i) that certain Mortgage, Security Agreement and Fixture Filing from Borrower to Lender recorded on November 15, 2006, with the County Recorder of Cook County (the "Recorder's Office"), Illinois as Document No. 0631901003 ("Mortgage"), which Mortgage encumbers the fee simple title to real property and all improvements thereon legally described on Exhibit A hereto, (ii) that certain Assignment of Rents and Leases from Borrower to Lender and recorded in the Recorder's Office on November 15, 2006, as Document No. 0631901004 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement from Borrower and Guarantor to Lender (the "Indemnity Agreement"); and (iv) certain other loan documents (the Loan Agreement, the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents"). All capitalized terms not defined herein shall have the same meaning as set forth in the Mortgage.

C. The Loan is further secured by a Payment Guaranty, dated September 25, 2006 from Guarantor to Lender (the "Guaranty").

D. Lender and Borrower desire to extend the Maturity Date, modify the interest rate provided under the Note and to amend the Mortgage, Note and other Loan Documents accordingly, on the terms and conditions set forth in this Amendment.

UNOFFICIAL COPY

Agreements

In consideration of the Recitals set forth above, which by this reference are made a part of this Amendment, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Lender and Borrower agree as follows:

1. Extension of Maturity Date. The Maturity Date, as defined in the Mortgage, is extended to November 2, 2007.

2. Amendment to Note.

A. Section 2.1 (a) is amended by deleting "April 4, 2007", and substituting the phrase "November 2, 2007" in its place.

B. Section 2.1(a) of the Note is amended by deleting the following language:

"Interest shall accrue on the outstanding principal balance of this Note from the date hereof through April 3, 2007, ("the Maturity Date"), at a fluctuating rate per annum equal to the Reference Rate (as hereinafter defined) established from time to time hereafter by the Lender (the "Interest Rate"), said Interest Rate hereunder changing automatically as of the effective date of any change in the Reference Rate."

The following shall be inserted in its place:

"Interest shall accrue on the outstanding principal balance of this Note from the date hereof through November 2, 2007, ("the Maturity Date"), at a fluctuating rate per annum equal to the Reference Rate (as hereinafter defined) established from time to time hereafter by the Lender plus 1.0% (the "Interest Rate"), said Interest Rate hereunder changing automatically as of the effective date of any change in the Reference Rate."

3. Amendment to Mortgage. Paragraph A of the Recitals to the Mortgage is amended by deleting "April 25, 2007" in the fifth line thereof, and substituting "November 2, 2007" in its place.

4. Amendment to Assignment of Rents and Leases and Other Loan Documents. The Assignment of Rents and the other Loan Documents are amended to provide that all references therein, if any, to the Maturity Date, shall constitute references to the Maturity Date as extended pursuant to this Amendment.

5. Consent and Ratification of Guarantor. In consideration of this Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor does hereby acknowledge and consent to the execution of this Amendment by the parties hereto and to all of the terms, conditions and provisions hereof. The Guaranty is amended to provide that all references in the Guaranty to any one or more of the Loan Documents shall be deemed references to such Loan Documents as amended by this Amendment. Guarantor acknowledges and agrees that the Guaranty remains in full force and effect, as amended by this Amendment. Guarantor also agrees that as of the date of this



UNOFFICIAL COPY

Amendment it has no defense, set-off or counterclaim to or against enforcement of the Guaranty, as amended hereby, in accordance with their respective terms.

6. Consent and Ratification of Indemnitor. In consideration of this Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Indemnitor (as defined in the Indemnity Agreement) does hereby acknowledge and consent to the execution of this Amendment by the parties hereto and to all of the terms, conditions and provisions hereof. The Indemnity Agreement is amended to provide that all references in the Indemnity Agreement to any one or more of the Loan Documents shall be deemed references to such Loan Documents as amended by this Amendment. Indemnitor acknowledges and agrees that the Indemnity Agreement remains in full force and effect, as amended by this Amendment. Indemnitor also agrees that as of the date of this Amendment it has no defense, set off or counterclaim to or against enforcement of the Indemnity Agreement, as amended hereby, in accordance with their respective terms.

7. Reaffirmation of Representations and Warranties. The Borrower hereby certifies and confirms to Lender that all of the representations and warranties set forth in the Mortgage, Note and the other Loan Documents, as amended hereby, remain true and correct in all respects as of the date hereof.

8. No Default. Borrower hereby certifies and confirms to Lender that no Event of Default or event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default, has occurred and is continuing.

9. Ratification of Mortgage, Note and Other Loan Documents. Borrower hereby ratifies and reaffirms the Mortgage, Note and other Loan Documents, as amended hereby, and the obligations, liabilities, liens, encumbrances and security interests created thereby. Borrower hereby acknowledges that neither Borrower nor any person or entity claiming by, through or under Borrower has any defense or claim for setoff against the enforcement by Lender of any of the Mortgage, Note or other Loan Documents, as amended hereby.

10. Full Force and Effect. The Mortgage, Note and other Loan Documents, as amended hereby, shall remain in full force and effect in accordance with their respective terms and provisions.

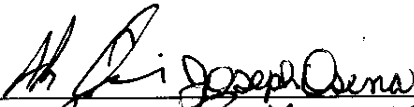
11. Binding Obligation. This Amendment and the Mortgage, Note and other Loan Documents, as amended hereby, are and shall continue to be binding on Borrower and its successors and assigns, and inure and shall continue to inure to the benefit of Lender and its successors and assigns.

12. Payment of Costs. Borrower shall pay all of Lender's costs and expenses incurred by Lender in connection with this Amendment, including, without limitation, an upfront loan fee in the amount of \$5,000, and all legal fees of Lender's counsel in connection herewith and the enforceability of this Amendment against Lender is conditioned upon payment of said costs and expenses.


UNOFFICIAL COPY

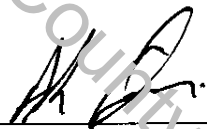
Lender, Borrower and Guarantor have executed this Amendment to Loan Documents as of the date first above written.


SHERWIN MANOR REALTY, LLC,
an Illinois limited liability company

By: 
Name: ABE OSINA - Joseph Osina
Title: MANAGER - Manager

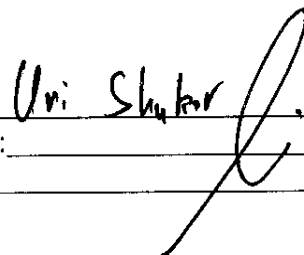
SHERWIN MANOR NURSING CENTER, LLC,
an Illinois limited liability company

By: 
Name: ABE OSINA - Joseph Osina
Title: MANAGER - Manager


ABE OSINA


JOSEPH OSINA

BANK LEUMI, USA, a New York chartered bank

By: 
Name: _____
Title: S.v.p.



UNOFFICIAL COPY

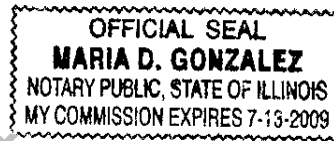
STATE OF ILLINOIS)
)
 COUNTY OF COOK) ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Abe Osina, personally known to me to be the Manager of Sherwin Manor Realty, LLC, an Illinois limited liability company ("Company"), and 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 as such Manager he signed and delivered the said instrument, pursuant to authority given by the Company, and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26th day of September, 2007.

Maria D. Gonzalez
 Notary Public

My commission expires July 13, 2009.



UNOFFICIAL COPY

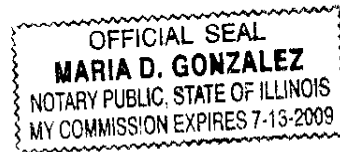
STATE OF ILLINOIS)
)
) ss.
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Abe Osina, personally known to me to be the Manager of Sherwin Manor Nursing Center, LLC, an Illinois limited liability company ("Company"), and 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 as such Manager he signed and delivered the said instrument, pursuant to authority given by the Company, and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26th day of September, 2007.

Maria D. Gonzalez
Notary Public

My commission expires July 13, 2009.



A handwritten signature or set of initials in the bottom right corner of the page.

UNOFFICIAL COPY

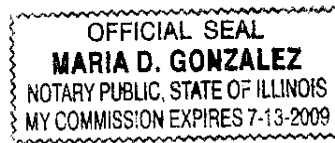
STATE OF ILLINOIS)
)
 COUNTY OF COOK) ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Abe Osina and Joseph Osina, each individually, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26th day of September, 2007.

Maria D. Gonzalez
 Notary Public

My commission expires July 13, 2009.



UNOFFICIAL COPY

STATE OF ILLINOIS)
)
 COUNTY OF COOK) ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Uri Shuker personally known to me to be the S.V.P. of Bank Leumi, USA, a New York chartered bank, who is 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 as such _____, he or she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27th day of September, 2007.

Maria D. Gonzalez
 Notary Public

My commission expires July 13, 2009.



UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

LOTS 1, 2 AND 3 IN BLOCK 13 IN BIRCHWOOD BEACH, IN SECTION 29, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 27, 1890 IN BOOK 42 OF PLATS PAGE 39 AS DOCUMENT NUMBER 1326212, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office