

UNOFFICIAL COPY



Doc#: 1035631117 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 12/22/2010 03:57 PM Pg: 1 of 8

3

211959

Following recording return to:

Warren P. Wenzloff
Applegate & Thorne-Thomsen, P.C.
322 South Green, Suite 400
Chicago, IL 60607

FHA Project No. 071-35771
O'Keefe Apartments

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION**

**RELEASE AND ASSUMPTION AGREEMENT
(MORTGAGE RESTRUCTURING LOAN)**

THIS RELEASE AND ASSUMPTION AGREEMENT (this "Agreement") is entered into as of the 16th day of December 2010 by and among O'Keefe Venture L.P., an Illinois limited partnership (the "Mortgagor" or "Seller"), O'Keefe Mulford, LLC, an Illinois limited liability company, purchaser of the property (the "Buyer"), and Mulford Square Preservation Corporation, an Illinois not-for-profit corporation (the "Mortgagee").

RECITALS:

In consideration of the consent of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner (the "Secretary"), to the transfer of the mortgaged property to Buyer and the release by the Mortgagee of Seller from any further liability under the Note, the Mortgage and the Regulatory Agreement (all as defined below), and in order to comply with the requirements of the Secretary, the National Housing Act, and the Regulations adopted pursuant thereto, the Buyer agrees to assume, except as limited below, and to be bound by the Mortgage and Mortgage Note, and the Regulatory Agreement (all defined below) and the Mortgagee consents to the release of the Seller from any further liability under the Note, the Mortgage or the Regulatory Agreement except as limited below.

Section 1. **Definition.** For purposes of this Agreement, the following terms are defined as follows:

Box 430

UNOFFICIAL COPY

- A. "Mortgage" and "Mortgage Note" shall mean respectively, that certain Mortgage dated as of May 31, 2005 ("Mortgage") and recorded in the Official Records of Cook County, State of Illinois ("Recorder's Office") as Instrument No. 0515712080 and that certain Mortgage Restructuring Mortgage Note of even date therewith ("Note") in the original principal amount of \$2,653,125.77, both executed by SSBOK, LLC, an Illinois limited liability company ("Original Mortgagor") to the Department of Housing and Urban Development ("Original Mortgagee"), both as assigned to and assumed by Seller pursuant to that certain Release and Assumption Agreement (Mortgage Restructuring Loan) entered into as of May 31, 2005, by and among Original Mortgagor, Seller, and Original Mortgagee and recorded in the Recorder's Office as Instrument No. 0515903091 ("Assumption Agreement"), assigned to Seller as mortgagee pursuant to that certain Agreement of Assignment entered into as of May 31, 2005 by and among Seller and Original Mortgagee and recorded in the Recorder's Office as Instrument No. 0515903086, and further assigned to Mortgagee as mortgagee pursuant to that certain Agreement of Assignment entered into as of May 31, 2005 by and among Seller and Mortgagee and recorded in the Recorder's Office as Instrument No. 0515903087.
- B. "Property" shall mean, collectively, that certain real property and the apartment project and related improvements located thereon, which real property is more fully described on Exhibit "A" attached hereto and incorporated herein.
- C. "Regulatory Agreement" shall mean that certain Regulatory Agreement for Multifamily Housing Projects between the Seller and the Secretary, dated as of May 31, 2005, and recorded in the Recorder's Office as Instrument No. 0515712081, as assigned to and assumed by Seller pursuant to the Assumption Agreement (the "Regulatory Agreement").

Section 2. **Seller's Release.** Seller shall not have any personal liability for payments due (a) under the Note or Mortgage from and after the date hereof or (b) for the payments to the reserve for replacements under the Regulatory Agreement, or for matters not under its or their control, provided that the Seller shall remain liable under the Regulatory Agreement only with respect to the matters hereinafter stated, namely:

(a) for funds or property of the project coming into its hands which, by the provisions thereof, it is not entitled to retain; and

(b) for its own acts and deeds or acts and deeds of other which it has authorized in violation of the provisions thereof.

Section 3. **Buyer's Assumption.** Effective as of the date of conveying title to the Property to the Buyer, Buyer assumes and is to be bound by the Mortgage, Note and Regulatory Agreement, subject to the limitation of personal liability provided in Section 5, below, to the same extent as if

UNOFFICIAL COPY

Buyer had been an original party to the Mortgage, Note and Regulatory Agreement. Buyer acknowledges that upon default under the Regulatory Agreement as specified therein, with the prior written consent of the Secretary, the holder of the Mortgage may declare the Mortgage in default and the whole of the indebtedness secured thereby to be due and payable. Further, in the event said Mortgage is assigned and re-insured, and upon default under the Regulatory Agreement, as specified therein, the Holder (with the prior consent of the Secretary), may declare the Mortgagor to be in default and the whole of the indebtedness secured by the Mortgage to be due and payable.

Section 4. **Equal Opportunity/No Illegal Discrimination Compliance.** Buyer agrees that there shall be full compliance with the provisions of (1) any laws prohibiting discrimination in housing on the basis of race, color, creed or national origin; and (2) with the Regulations of the Federal Housing Administration ("FHA") providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any 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 Buyer is identified; and further the Secretary shall have a similar right of corrective action (a) with respect to any individuals who are officers, directors, or members of the Buyer; and (b) with respect to any corporation or any other type of business association or organization with the officers, directors, members of the Buyer may be identified.

Section 5. **Limited Liability.** Notwithstanding anything provided herein, neither Buyer nor any of its members, present or future, assume personal liability for payments due under the Note or Mortgage, or for the payments to the reserve for replacements, provided that the Buyer and its members shall remain liable under said Regulatory Agreement only with respect to the matters hereinafter state, namely:

- (a) for funds or property of the project coming into its hands which, by the provisions thereof, it is not entitled to retain; and
- (b) for its own acts and deeds or acts and deeds of other which it has authorized in violation of the provisions thereof.

Section 6. **Secretary's Rights.** Nothing in this Agreement shall waive, compromise, impair or prejudice any right the Secretary may have to seek judicial recourse for any breach of the Regulatory Agreement that may have occurred prior to or may occur subsequent to the date of this Agreement. In the event that the Secretary initiates an action for breach of the Regulatory Agreement and recovers funds, either on the Secretary's own behalf or on behalf of the Project or any mortgagor under the Mortgage, those funds may be applied, at the discretion of the Secretary, to payment of the delinquent amounts due under the Mortgage or as a partial prepayment of the Mortgage debt.

Section 7. **Intent/Priority of Mortgage.** Nothing contained herein contained shall in any way impair the Note, or the security now held for the indebtedness evidenced by the Mortgage, or alter, waive, annul, vary or affect any provision, covenant or condition of the

UNOFFICIAL COPY

Mortgage or the Regulatory Agreement, except as specifically modified and amended herein, nor affect or impair any rights, powers or remedies of the Mortgagee under the Note, the Mortgage, and the Regulatory Agreement, nor create a novation or new agreement by and between the parties thereto, it being the intent of the parties to this Agreement that all of the terms, covenants, conditions and agreements of the Note, the Mortgage, and the Regulatory Agreement are expressly approved, ratified and confirmed, shall continue and remain in full force and effect except as modified hereby and that the lien of the Mortgage and the Regulatory Agreement and the priority thereof shall be unchanged.

Section 8. **Counterparts.** This Agreement may be executed in counterparts.

**[SIGNATURES AND ACKNOWLEDGMENTS
CONTAINED ON THE FOLLOWING PAGES]**

Property of Cook County Clerk's Office

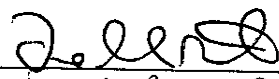
UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed under seal as of the date first above written.

SELLER:

O'KEEFFE VENTURE L.P.,
an Illinois limited partnership


By: Mulford Square Preservation Corporation,
an Illinois not-for-profit corporation, General Partner

By: 
Frederick P., President
Masnato

BUYER:

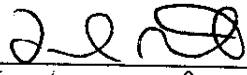
O'KEEFFE MULFORD, LLC
an Illinois limited liability company

By: Mulford Square Preservation Corporation,
an Illinois not-for-profit corporation, Manager

By: 
Frederick P., President
Masnato

MORTGAGEE:

MULFORD SQUARE PRESERVATION CORPORATION,
an Illinois not-for-profit corporation

By: 
Frederick P., President
Masnato

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

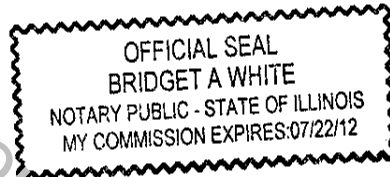
On this 16th day of December, 2010, before me, a Notary Public, personally appeared Fredenick Masnato to me personally known, who being by me duly sworn, did say that he/she is the President of Mulford Square Preservation Corporation, the general partner of O'Keeffe Venture L.P., an Illinois limited partnership, and that said instrument was signed pursuant to authority as his/her free and voluntary act, and as the free and voluntary act and deed of said limited partnership, for the purposes and uses therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Bridget A. White
Notary Public

[SEAL]

My Commission Expires:



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

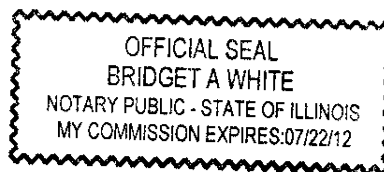
On this 16 day of December, 2010, before me, a Notary Public, personally appeared Fredenick Masnato, to me personally known, who being by me duly sworn, did say that he/she is the President of Mulford Square Preservation Corporation, the manager of O'Keeffe Mulford, LLC, an Illinois limited liability company, and that said instrument was signed pursuant to authority as his/her free and voluntary act, and as the free and voluntary act and deed of said limited liability company, for the purposes and uses therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Bridget A. White
Notary Public

[SEAL]

My Commission Expires:



UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

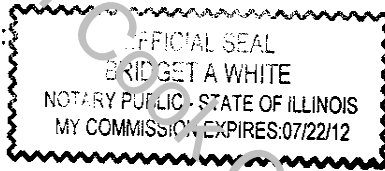
On this 10th day of December, 2010, before me, a Notary Public, personally appeared Fredrick Mizanoff to me personally known, who being by me duly sworn, did say that he/she is the President of Mulford Square Preservation Corporation, and that said instrument was signed pursuant to authority as his her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the purposes and uses therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Bridget A. White
Notary Public

[SEAL]

My Commission Expires:



Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A LEGAL DESCRIPTION

LOT 13 AND THE SOUTH HALF OF LOT 12 IN BLOCK 2 IN SOUTH KENWOOD A RESUBDIVISION OF BLOCKS 2, 7 AND 8 IN GEORGE W. CLARKE'S SUBDIVISION OF THE EAST HALF OF THE NORTHWEST QUARTER WITH PART OF BLOCK 3 IN STAVE AND KLEMM'S SUBDIVISION OF THE NORTHEAST QUARTER ALL IN SECTION 25, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LOT 100 IN THE FIRST ADDITION TO BRYN MAWR HIGHLANDS BEING A SUBDIVISION OF THE NORTH THREE QUARTERS OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE WEST 500 1/2 FEET THEREOF AND EXCEPT BRYN MAWR HIGHLANDS SUBDIVISION AND EXCEPT EAST 67TH STREET AND EAST 68TH STREET HERETOFORE DEDICATED), IN COOK COUNTY, ILLINOIS.

LOTS 1 AND 2 IN B.J. KELLEY'S SUBDIVISION OF BLOCK 2 IN COMMISSIONER'S PARTITION BEING A SUBDIVISION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LOTS 6 AND 7 IN SUBDIVISION OF THE WEST HALF OF THE SOUTH THREE-FIFTHS OF LOT 3 IN GEORGE W. CLARKE'S SUBDIVISION OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LOT 13 (EXCEPT THE EAST 17½ FEET THEREOF) AND ALL OF LOTS 14 AND 15 IN BLOCK 1 IN THE RESUBDIVISION OF BLOCKS 10 AND 11 AND PART OF BLOCK 12 IN THE SOUTH SHORE DIVISION NO. 5, BEING A SUBDIVISION OF THE EAST ½ OF THE SOUTH EAST ¼ OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS:

7150 South Euclid, 6900 South Clyde, 2049-2059 East 69th Street, 7002 South Clyde, 2049-2059 East 70th Street, 7150-7156 South Bennett Avenue, 1834-1842 East 72nd Street, 7001 South Paxton and 2201-2205 East 70th Street, Chicago, Illinois

PINS:

20-25-108-018, 20-24-415-012, 20-24-422-013, 20-25-107-020 and 20-24-425-001