



Doc#: 1113950043 Fee: \$78.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 05/19/2011 12:17 PM Pg: 1 of 7

## Deed in Lieu of Foreclosure Settlement Agreement

THIS DEED IN LIEU OF FORECLOSURE SETTLEMENT AGREEMENT is made as of the 18 day of APRIL, 2011 (this "Settlement Agreement") by, between, and among ALMA FINACIAL SERVICES, a Limited Liability Company, with a mailing address of PO Box 0293, Wheeling, Illinois 60069 ("Lender"), and Marina Mikhalets-Fasbinder, an Individual, ("Borrower").

### WITNESSETH:

- A. Borrower owns fee simple title to the real estate and the improvements thereon commonly known as 1243 E. Baldwin Lane, Unit 604, Palatine, Illinois 60074 (hereinafter referred to as the "Property") and legally described on Exhibit A attached hereto, which real estate includes, but is not limited to, an attached, single family condominium.
- B. Lender made a loan to Borrower in the amount of \$143,650 and 00/100 Dollars (\$143,650.00) ("Loan") which Loan was made pursuant to a certain Loan Agreement dated July 26, 2004 between Borrower and Lender (the "Loan Agreement"). The Mortgage is evidenced by a certain Promissory Note dated July 26, 2004 made by Borrower, as maker, in favor of Lender as payee, in the face principal amount of \$143,650 and 00/100 Dollars (\$143,650.00) (the "Note"). The Loan is secured by, among other things, a certain Mortgage, Assignment of Leases and Rents, and Security Agreement dated July 26, 2004 made by Borrower, as mortgagor, in favor of Lender, as mortgagee, recorded in the real property records of Cook County, State of Illinois as Document No. 0422446092 (the "Mortgage").
- C. As of April 1, 2011, the total outstanding principal balance of the Loan was \$136,250.79 and the total accrued and unpaid interest thereon was \$4,625.00.
- D. Borrower is in default under the Loan Documents in that the Borrower failed to pay property

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taxes on the above-mentioned property ("Borrower's Default"). The Loan has been accelerated and the entire principal amount of Loan together with all accrued interest thereon is now due and owing.

E. In order to avoid the financial hardship and damage to reputation that would result from the Borrower's Default, Borrower has requested that the parties resolve Borrower's Default by Borrower's conveyance of the real estate, commonly known as 1243 E Baldwin Lane, Apt. 604, Palatine, IL 60074, legally described on Exhibit A and other property to Lender, or to a person or other entity designated by Lender ("Buyer"), in lieu of foreclosure in consideration of the agreement by the Lender not to foreclose or exercise its rights and remedies under the loan documents for failure to pay the debt and/or real estate taxes on the above-mentioned property, and other consideration.

F. The fair market value of the "Property" (as hereinafter defined) does not exceed the total outstanding unpaid principal of, interest accrued and unpaid, and other outstanding indebtedness due and owing under the Loan Documents.

G. Lender wishes to accept the conveyance of the Property pursuant to this Agreement to avoid the necessity of litigation, foreclosure, the delays associated therewith, and to avoid the delays associated with Borrower's statutory redemption rights, if any, with respect to the Property, and Lender acknowledges that the provisions of this Agreement directly benefit Lender in this regard; and

NOW, THEREFORE, for and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, and Lender do hereby agree as follows:

## ARTICLE I

### **Transferred in Lieu of Foreclosure**

**Transfer of Property.** Subject to the terms, provisions, conditions, covenants, and agreements herein contained, Borrower agrees to sell, grant, transfer, assign, and convey to Lender and Lender agrees to acquire, or cause Buyer to acquire, from Borrower absolutely and free of any right of redemption or other right or interest of Borrower or anyone claiming by, through, or

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under Borrower, the following real and personal property (collectively, the "Property"): (a) good, valid, indefeasible, and marketable fee simple title to the land ("Land") legally described on Exhibit A attached hereto, all buildings, fixtures, and other improvements situated on the Land (all said buildings and other improvements hereinafter called the "Improvements"), all of Borrower's right, title, and interest in and to and all easements, rights, tenements, and appurtenances thereunto belonging or appertaining to the Land and Improvements, and all of Borrower right, title, and interest in and to any and all streets, alleys, or public ways adjacent thereto, before or after vacation thereof ("Real Estate"); (b) all of Borrower's right, title, and interest as lessor or lessee in all leases, licenses, and other agreements to occupy all or any part of the Real Estate together with all rents and other sums due, accrued or to become due under each such lease, license, and agreement, all rents that are received and allocable to periods following the signing of this Agreement.

## ARTICLE II

### Consideration

**Covenant Not to Sue.** In consideration for the transfer by Borrower of the Property to Lender (or, at Lender's option, Buyer), and subject to the terms, provisions, and conditions herein contained, Lender shall agree not to foreclose or exercise its rights and remedies under the loan documents for failure to comply with all of the covenants and agreements of the loan documents, the mortgage and the note. Lender hereby expressly waives any right to seek any deficiency judgment for any costs, and expenses in excess of the Property Market Value.

## ARTICLE III

**Rent Collections.** Borrower agrees that in the event that Borrower or any affiliate of Borrower receives any rental payment or other payment from any tenant or other occupant or user of the Property following the signing of this Agreement, Borrower will deliver to Lender or Lender's designee, with proper endorsements, such funds not later than two (2) business days following receipt of such funds.

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## ARTICLE IV

### Representations and Warranties

Representations and Warranties of Lender. Lender represents and warrants to Borrower and as follows:

- (a) Lender is an organized and existing limited liability company in good standing under the laws of the State Illinois and Lender is authorized to do business in the State of Illinois.
- (b) Lender has the right, power, and authority to execute this Agreement and to perform its obligations under this Agreement. The execution and delivery of this Agreement by Lender and the performance by Lender under this Agreement has been authorized by all necessary corporate action of Lender.

Representations and Warranties of Borrower: Borrower represents and warrants to Lender as follows:

- (a) Borrower is a[n] individual, currently residing at 301 N. Riverwalk Drive, Apartment 401, Buffalo Grove, Illinois 60089.
- (b) Borrower has the capacity, right, power, and authority to execute this Agreement and to perform her respective obligations hereunder and to consummate the transaction described herein contemplated by this Agreement including the execution and delivery of all documentation required by this Agreement.
- (c) Bankruptcy: Borrower has not filed a petition in any case, action, or proceeding under the Bankruptcy Code or any similar state law; no petition in any case, action, or proceeding under the Bankruptcy Code or any similar state law has been filed against Borrower that has not been dismissed or vacated; and Borrower has not filed an answer or otherwise admitted in writing insolvency or inability to pay their debts or made an assignment for the benefit of creditors or consented to an appointment of a receiver or trustee of all or a material part of their property. The transaction contemplated herein is not a preference, voidable transfer, fraudulent conveyance, or otherwise in violation of the Bankruptcy Code or any other similar state or federal law.
- (c) Absence of Litigation. Borrower has not received any written notice of any, nor is there any, pending or, to the best of Borrower's knowledge any threatened, litigation or administrative proceeding involving in any manner the Real Property or the ownership, leasing, operation, management, use, or maintenance thereof or this transaction.
- (d) Arm's-Length Transaction. Borrower has requested conveyance of title to the Property in lieu

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of the exercise of Lender's remedies pursuant to the Loan Documents and throughout the negotiation, preparation, and execution of this Agreement is advised and able to be represented by competent legal counsel of their own choosing. This Agreement was entered into out of the free will of Borrower and pursuant to arm's-length negotiations and Borrower believe this Agreement is fair. Lender has not taken advantage of Borrower by threats, intimidation, overreaching, unconscionable conduct, or otherwise and Borrower is proceeding in this transaction as volunteer in what she perceives to be her own best interest.

Indemnity. Borrower agrees to defend, indemnify, and hold Lender, Buyer, and their respective partners, successors, assigns, members, officers, participants, shareholders, directors, and personal representatives (collectively, the "Lender-Connected Parties") harmless from and against any losses, damages, costs (including, without limitation, attorneys' fees, court costs, and costs of appeal), expenses, judgments, liens, decrees, fines, penalties, liabilities, claims, actions, suits, and causes of action arising, directly or indirectly, from (a) any breach by Borrower of warranty or representation contained in this Agreement or in the documents executed and delivered by Borrower pursuant to this Agreement (with this Agreement, sometimes collectively referred to as the "Borrower Documents"); (b) any breach, default, or violation by Borrower of any covenant, agreement, or provision of the Borrower Documents; and (c) any claims or liabilities pertaining to the Property arising prior to the signing of this agreement

## ARTICLE V

### **No Obligation of Lender to Third Parties**

No Third-Party Beneficiary. Borrower acknowledges and agrees that the transfer to Lender or Buyer of title to the Real Property pursuant to the terms of this Agreement shall not create any obligations on the part of Lender to third parties that have claims of any kind whatsoever against Borrower with respect to the property, and Lender does not assume or agree to discharge any liabilities pertaining to the Property except as otherwise expressly provided in this Agreement.

## ARTICLE VI

### **Absolute Conveyance**

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Conveyance. The conveyance of the Property to Lender or Buyer according to the terms of this Agreement is an absolute conveyance of all of its right, title, and interest in and to the Property in fact and was not and is not now intended as a mortgage, trust conveyance, deed of trust, or security instrument of any kind, and that the consideration for such conveyance is exactly as recited herein and Borrower has no further interest (including rights of redemption) or claims in and to the Property or to the rents, proceeds, and profits that may be derived thereof, of any kind whatsoever.

## ARTICLE VII

### Miscellaneous

Time is of Essence; Counterparts; Governing Law. All parties hereto agree that time is of the essence in this transaction and that this Agreement may be executed in counterparts and shall be governed by and interpreted in accordance with the laws of the State of Illinois.

Lender's Liability. In no event shall Lender be personally or individually liable for any obligation set forth in this Agreement. Except to the extent expressly provided in the Borrower Documents, neither Buyer nor Lender is assuming any obligations or liabilities of Borrower.

Value. Borrower hereby confirms to Lender that this value of the Property does not exceed the indebtedness owing to Lender pursuant to the Loan Documents.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have executed this Agreement as of the 18 day of April, 2011.

BORROWER:



Date

4/18/2011

Name: Marina Mikhalets-Fasbinder

LENDER:

ALMA Financial Services, a limited liability company

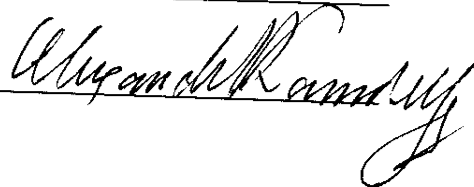
By:

MEMBER

Date

4-18-2011

Name:



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**LEGAL DESCRIPTION:****PARCEL 1:**

UNIT 604 IN SAN TROPAL CONDOMINIUM, AS DELINEATED ON SURVEY OF THE SOUTH 780.0 FEET AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE THEREOF, OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, 282.96 FEET, (THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, BEING ASSUMED AS RUNNING DUE EAST AND WEST FOR THIS LEGAL DESCRIPTION); THENCE NORTH 167.0 FEET TO A POINT OF BEGINNING OF PARCEL OF LAND HEREIN DESCRIBED: THENCE WEST 77.0 FEET; THENCE NORTH 88.0 FEET; THENCE WEST 13.2 FEET; THENCE NORTH 217.17 FEET; THENCE EAST 77.0 FEET; THENCE SOUTH 123.0 FEET; THENCE EAST 71.40 FEET; THENCE SOUTH 59.17 FEET; THENCE EAST 58.0 FEET; THENCE SOUTH 123.0 FEET OF THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS (HEREINAFTER REFERRED TO AS PARCEL) WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO DECLARATION OF CONDOMINIUM MADE BY CHICAGO TITLE AND TRUST COMPANY, A CORPORATION OF ILLINOIS AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 20, 1976 AND KNOWN AS TRUST NUMBER 1067400 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER 23448135, TOGETHER WITH AN UNDIVIDED PERCENTAGE INTEREST IN SAID PARCEL (EXCEPTING FROM SAID PARCEL ALL THE PROPERTY AND SPACE COMPRISING ALL THE UNITS THEREOF AS DEFINED AND SET FORTH IN SAID DECLARATION AND SURVEY, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS SET FORTH IN THE DECLARATION OF EASEMENTS DATED MARCH 31, 1976 AND RECORDED APRIL 12, 1976 AS DOCUMENT NUMBER 23448134, FOR INGRESS, AND EGRESS AND CREATED BY DEED FROM CHICAGO TITLE AND TRUST COMPANY, AS TRUSTEE UNDER TRUST NUMBER 1067400 TO PAUL GUTTMAN DATED APRIL 6, 1977 AND RECORDED APRIL 11, 1977 AS DOCUMENT 22280870 IN COOK COUNTY, ILLINOIS.

Clerk's Office