



Doc#: 1201234049 Fee: \$86.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/12/2012 10:12 AM Pg: 1 of 9

**RECORDING REQUESTED BY AND
AFTER RECORDING, RETURN TO:**

Landmark Dividend LLC
1700 E. Walnut Ave., Suite 400
El Segundo, CA 90245
Attn: Legal Dept.

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**NON-DISTURANCE
AND ATTORNMENT AGREEMENT AND
PARTIAL RELEASE OF ASSIGNMENT OF LEASES AND RENTS**

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT AND PARTIAL RELEASE OF ASSIGNMENT OF LEASES AND RENTS (this "Agreement"), dated this 23rd day of December 2011 between Bank of America, N.A., successor by merger to LaSalle Bank ("Lender"), and Woodlawn East Community and Neighbors, Inc., a non-profit organization ("Lessor"), and LD Holdings LLC, a Delaware limited liability company ("Landmark").

WITNESSETH:

WHEREAS, Lessor, and certain tenant(s), are parties to a lease (the "Lease(s)") for a portion of the real property located at 6230 S. Dorchester Avenue, Chicago, IL 60637 ("Leased Premises") as said real property is described in **Exhibit "A"** attached to this Agreement ("Real Property"); and

WHEREAS, Landmark and Lessor have entered into or propose to enter into a Lease Purchase Agreement (the "Purchase Agreement and Easement and Assignment of Lease Agreement") which would, among other things, provide for the payment by Landmark of a lump sum to Lessor in exchange for an assignment by Lessor of all its right, title and interest in and to the Lease more particularly described on **Exhibit "B"** hereto (the "Assigned Lease") and which would grant an easement to Landmark to access the premises leased under the Assigned Lease (the "Easement Agreement"); and

WHEREAS, Lender made or has agreed to make a loan to Lessor, secured by a Mortgage on the Real Property by that certain Mortgage and Security Agreement dated December 14, 1993 and recorded on December 14, 1993 in Instrument No. 03-023731 in the original amount of \$384,000.00 ("Mortgage"); and

WHEREAS, the parties hereto desire to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged by the parties hereto, Lender, Lessor and Landmark hereby agree as follows:

1. Non-Disturbance. So long as the Assigned Lease(s) are not terminated, the use, possession or enjoyment of Leased Premises by Landmark or its tenants, successors, assigns, mortgagees and secured creditors, including the collection of rents by Landmark, pursuant to the Assigned Lease(s) shall not be interfered with nor shall Easement be affected in any other manner, in any exercise of any power of sale in the Mortgage, or by foreclosure or any action or proceeding instituted under or in

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connection with the Mortgage or other remedial proceeding (including any proceedings under the Bankruptcy Code, 11. U.S.C. §101 et seq.), except that the person or entity acquiring the interest of the Lessor under the Easement as a result of any such action or proceeding, and the successors and assigns thereof (hereinafter referred to as the "Purchaser") shall not be (a) liable for any act or omission of any prior site owner under the Assigned Lease Purchase Agreement or Easement Agreement; or (b) subject to any offsets of defenses which Landmark under the Easement Agreement, the Purchase Agreement or the Assigned Lease might have against the prior site owner. **Lender and Lessor specifically acknowledge that Landmark shall have the exclusive right to collect any and all rents due by tenant(s) under the Assigned Lease(s), said Assigned Lease(s) being more fully described on Exhibit "B" hereof and, by execution of this instrument, any Assigned lease are specifically released from (i) that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing by Lessor to and for the benefit of Lender dated as of December 14, 1993 and recorded on December 14, 1993 in Instrument No. 03-023731, together with all modifications, and any and all other security interests executed in connection with the aforesaid or otherwise securing the loan.**

2. Landmark Not To Be Joined In Foreclosure. So long as the Assigned Lease(s) are not terminated or in default, Lender will not join Landmark as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage or required by law and then only for such purpose and not for the purpose of terminating the Assigned Lease(s). Landmark agrees and covenants that, to the extent the Assigned Lease or the proceeds therefrom are deemed or alleged to be part of the loan collateral encumbered by the Mortgage (the "**Mortgaged Property**") or to the extent that the Assigned Lease contains a legal description which includes all or any portion of the Mortgaged Property, the Assigned Lease and all of the terms, covenants and provisions thereof and any and all of Landmark's right, title and interest to the Mortgaged Property shall be subject, subordinate and inferior to the lien, terms and conditions of the Mortgage. Further, to the extent Landmark or any successor holder of the landlord's interest under the Assigned Lease pledges the landlord's interest under the Assigned Lease as security for financing (a "**Pledge**"), such Pledge shall, to the extent it encumbers the Mortgaged Property, be subject, subordinate and inferior to the lien, terms and conditions of the Mortgage. The foregoing provisions shall be self-operative. Any holder of a Pledge shall, by acceptance of any such Pledge, be deemed to have agreed to the foregoing provisions and shall be deemed to agree that such holder of a Pledge shall cooperate fully with Lender in connection with Lender's exercise of its rights and remedies under the Mortgage, including permitting Lender to foreclose the Mortgage, and ensuring that title to the Mortgaged Property is transferred to Lender as expeditiously as possible, all in the manner determined by Lender in its sole discretion. Without limiting the generality of the foregoing, Landmark and its successor and assigns under the Assigned Lease covenant and agree that, subject to the terms of this Agreement, they shall not directly or indirectly: (i) raise any objection or assert any defenses to the foreclosure of Mortgage; (ii) contest the entry of an order appointing a receiver; (iii) file any counterclaim; (iv) interplead any party; (v) appeal any order appointing a receiver or any judgment of foreclosure; (vi) repudiate or attempt to repudiate the validity of the Mortgage; (vii) file suit against Lender (or for any other reasons pertaining to this Agreement, the Mortgage, or the Mortgaged Property); or (viii) take any other action which would delay or frustrate the appointment of a receiver, and/or a completion of the foreclosure sale.

3. Attornment. In the event the exercise of the power of sale in the Mortgage, or in the event of foreclosure of the Mortgage, or in event of a conveyance of the Lessor's Real Property in lieu of foreclosure, Landmark agrees to attorn to and accept the purchaser at the foreclosure sale or the

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Landmark under the conveyance in lieu of foreclosure as the site owner for the balance then remaining of the term of the Assigned Lease and the Easement Agreement subject to all terms and conditions of the Easement Agreement and the Assigned Lease and the terms of this Agreement. Said attornment shall be effective and self-operative without the execution of any further instruments upon the succession by Purchaser to the interest of Lessor. The rights and obligations of Landmark upon such attornment, shall be and are the same as now set forth in the Purchase Agreement.

4. Notwithstanding the continuation of the Assigned Lease and/or the Easement Agreement or the attornment of Landmark thereunder, Lender shall not:

(i) be bound by any modification of the Assigned Lease or Easement Agreement unless such modification shall have been expressly approved in writing by Lender;

(ii) be liable for any security deposited under the Assigned Lease unless such security has been physically delivered to Lender, and

(iii) be liable or obligated to comply with or fulfill any of the obligations of Lessor under the Assigned Lease or under the Easement Agreement or any agreement relating thereto.

Landmark hereby represents to Lender as follows:

(a) The Assigned Lease is in full force and effect, and has not been further amended. Landmark is the owner and holder of all of the landlord's rights under the Assigned Lease.

(b) There has been no assignment of the Assigned Lease or subletting of any portion of the premises demised under the Assigned Lease.

(c) There are no oral or written agreements or understandings between the Lessor and Landmark relating to the premises demised under the Assigned Lease or the Assigned Lease transaction except as set forth in the Assigned Lease and the Easement Agreement.

(d) The Assigned Lease is in full force and effect, and to the best of Landmark's knowledge, there exists no default (beyond any applicable grace period) on the part of either Landmark or the tenant under the Lease.

5. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their respective heirs, administrators, representatives, successors and assigns, or any other person having an interest therein and any purchaser of the Site Owner's Property, including without limitation at or after a foreclosure sale or conveyance in lieu of foreclosure.

6. Provisions Binding: Authority. The terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lender, Lessor and Landmark. The respective signatories for the parties to this Agreement represent and warrant to their respective counterparties that each is duly authorized to execute this Agreement on behalf of the part each signatory represents, and that said party is duly authorized to execute and deliver this Agreement.

7. Governing Law. This Agreement shall be interpreted and governed by the laws of the State in which the Lessor's Real Property is located.

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8. Counterparts. This Agreement may be signed in multiple counterparts, each of which is an original, but all of which comprise one Agreement.

9. Release of Claims.

AS A MATERIAL INDUCEMENT TO LENDER TO ENTER INTO THIS NDA AND TO CONSENT TO THE ASSIGNMENT OF THE ASSIGNED LEASE, WOODLAWN EAST COMMUNITY AND NEIGHBORS, INC., AN ILLINOIS NOT-FOR-PROFIT CORPORATION (ON BEHALF OF THEMSELVES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS (THE "BORROWER RELEASE PARTIES")), HEREBY FULLY, FINALLY AND COMPLETELY RELEASE AND FOREVER DISCHARGE LENDER, AND ITS SUCCESSORS, ASSIGNS, PARTICIPANTS, AFFILIATES, SUBSIDIARIES, LOAN SERVICERS, PARENTS, OFFICERS, SHAREHOLDERS, DIRECTORS, EMPLOYEES, ATTORNEYS, LENDERS AND PROPRIETORS, PAST, PRESENT AND FUTURE, AND THEIR RESPECTIVE HEIRS, SUCCESSORS AND ASSIGNS (COLLECTIVELY AND INDIVIDUALLY, THE "LENDER RELEASE PARTIES"), OF AND FROM ANY AND ALL CLAIMS, CONTROVERSIES, DISPUTES, LIABILITIES, OBLIGATIONS, DEMANDS, DAMAGES, DEBTS, LIENS, ACTIONS AND CAUSES OF ACTION OF ANY AND EVERY NATURE WHATSOEVER, KNOWN OR UNKNOWN, WHETHER AT LAW, BY STATUTE OR IN EQUITY, IN CONTRACT OR IN TORT, UNDER STATE OR FEDERAL JURISDICTION, AND WHETHER OR NOT THE ECONOMIC EFFECTS OF SUCH ALLEGED MATTERS ARISE OR ARE DISCOVERED IN THE FUTURE, WHICH THE BORROWER RELEASE PARTIES HAVE AS OF THE EFFECTIVE DATE OR MAY CLAIM TO HAVE AS OF THE EFFECTIVE DATE AGAINST THE LENDER RELEASE PARTIES ARISING OUT OF OR WITH RESPECT TO ANY AND ALL TRANSACTIONS RELATING TO (I) THAT CERTAIN \$384,000 LOAN FROM LENDER TO BORROWER SECURED BY REAL ESTATE MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT DATED DECEMBER 14, 1993 ENCUMBERING PROPERTY KNOWN AS 6230 S. DORCHESTER, CHICAGO, ILLINOIS, AND (II) THAT CERTAIN \$180,000 LOAN FROM LENDER TO BORROWER SECURED BY MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES DATED AS OF JULY 15, 1997, ENCUMBERING PROPERTY KNOWN AS 1411-1415 E. 65TH PLACE, CHICAGO, ILLINOIS (COLLECTIVELY, THE "LOANS"), OR THE LOAN DOCUMENTS EVIDENCING THE LOANS (THE "LOAN DOCUMENTS") OCCURRING ON OR BEFORE THE EXECUTION DATE, INCLUDING ANY LOSS, COST OR DAMAGE OF ANY KIND OR CHARACTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH OR IN ANY WAY RESULTING FROM THE ACTS, ACTIONS OR OMISSIONS OF THE LENDER RELEASE PARTIES OCCURRING ON OR BEFORE THE EFFECTIVE DATE WITH RESPECT TO THE LOANS OR THE LOAN DOCUMENTS. THE FOREGOING RELEASE IS INTENDED TO BE, AND IS, A FULL, COMPLETE AND GENERAL RELEASE IN FAVOR OF THE LENDER RELEASE PARTIES WITH RESPECT TO ALL CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION AND OTHER MATTERS DESCRIBED THEREIN WITH RESPECT TO THE LOANS OR THE LOAN DOCUMENTS, INCLUDING SPECIFICALLY, WITHOUT LIMITATION, ANY CLAIMS, DEMANDS OR CAUSES OF ACTION UNREBATED UPON ALLEGATIONS OF BREACH OF FIDUCIARY DUTY, BREACH OF ANY ALLEGED DUTY OF FAIR DEALING IN GOOD FAITH, ECONOMIC COERCION, USURY, OR ANY OTHER THEORY, CAUSE OF ACTION, OCCURRENCE, MATTER OR THING WHICH MIGHT RESULT IN LIABILITY UPON THE LENDER RELEASE PARTIES ARISING OR OCCURRING ON OR BEFORE THE EXECUTION DATE WITH RESPECT TO THE LOANS OR THE LOAN DOCUMENTS. THE BORROWER RELEASE PARTIES UNDERSTAND AND AGREE THAT THE FOREGOING GENERAL RELEASE IS IN CONSIDERATION FOR THE AGREEMENTS OF THE LENDER CONTAINED HEREIN AND THAT THEY WILL RECEIVE NO FURTHER CONSIDERATION FOR SUCH RELEASE.

(B) BORROWER WARRANTS AND REPRESENTS TO THE LENDER THAT BORROWER HAS NOT SOLD, ASSIGNED, TRANSFERRED, CONVEYED OR OTHERWISE DISPOSED OF ANY CLAIMS WHICH ARE THE SUBJECT OF THIS SECTION. THE INCLUSION OF THIS PROVISION SHALL NOT BE DEEMED TO BE AN ADMISSION BY THE LENDER THAT ANY SUCH CLAIMS EXIST.

**** SIGNATURES ON NEXT PAGE****

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

"LENDER":

BANK OF AMERICA, N.A.

By: [Signature]
Print Name: Michael Olson
Title: Senior Vice President
Date: December 22, 2011

Property of Cook County Clerk's Office

State of Illinois

County of Cook

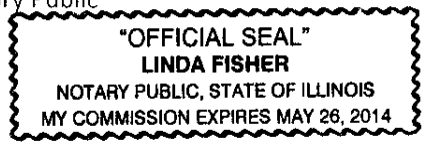
ss.

On December 22, 2011 before me, Linda Fisher, Notary Public, personally appeared Michael Olson, as Senior Vice President of Bank of America, N.A., who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

Linda Fisher
Notary Public



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

"LESSOR":

WOODLAWN EAST COMMUNITY AND NEIGHBORS, INC.

By: *Mattie Butler*
Name: Mattie Butler
Title: President

Date: 12/23/11

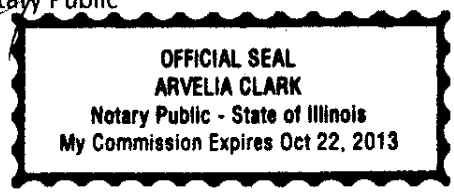
State of Illinois
County of Cook ss.

On 12/23/2011 before me, Arvelia Clark, Notary Public, personally appeared Mattie Butler, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

Arvelia Clark
Notary Public



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

“LANDMARK”:

LD HOLDINGS LLC, a
Delaware limited liability company

BY: LANDMARK DIVIDEND LLC, a
Delaware limited liability company, its sole member

By: _____
Name: Daniel E. Rebeor
Title: Authorized Signatory

Date: 12/21/11

State of California


ss.

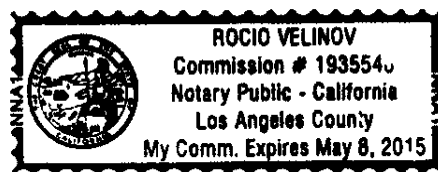
County of Los Angeles

On December 21, 2011 before me, ROCIO VELINOV, Notary Public, personally appeared Daniel E. Rebeor, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.


Signature of Notary Public
Commission Expires on: 5/8/2015



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EXHIBIT "A"

Real Property Legal Description

Lot 30 in Block 6 in Edson Keith's subdivision of the South West 1/4 of the South East 1/4 of Section 14, Township 36 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

AND BEING the same property conveyed to City of Chicago from L Stanley T. Kusper, Jr., County Clerk of said County of Cook by Tax Deed dated October 08, 1987 and recorded October 03, 1990 in Instrument No. 90-482628; AND FURTHER CONVEYED to Woodlawn East Community and Neighbors, Inc. from The City of Chicago by Quitclaim Deed dated September 25, 1990 and recorded October 03, 1990 in Instrument No. 90482629.

Tax Parcel No. 20-14-414-014

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EXHIBIT "B"

Description of Assigned Lease(s)

1. That certain Lease Agreement by and between Woodlawn East Community and Neighbors, Inc., a non-profit organization, as Lessor, and AT&T Wireless PCS, LLC, a Delaware limited liability company, as Lessee, dated October 2, 2001, together with all modifications and memoranda related thereto.

Property of Cook County Clerk's Office