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Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 12/28/2015 03:34 PM Pg: 1 of 14

212358

ASSIGNMENT OF RENTS AND LEASES

Recording Area

**After Recording Return to:**

Albert, Whitehead, P.C.  
10 North Dearborn Street  
Suite 600  
Chicago, Illinois 60602  
Attn: Gregory C. Whitehead

PINS: See Exhibit A

This document was prepared for:

OP Morgan Chase Bank, N.A.  
Community Development Group  
10 South Dearborn Street  
Mail Code IL-0953  
Chicago, Illinois 60603  
Attn: John D. Bernhard

Bm  
14

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## ASSIGNMENT OF RENTS AND LEASES

**THIS ASSIGNMENT OF RENTS AND LEASES** ("Assignment") is made and delivered as of December 21, 2015 by **HARVEST HOMES APARTMENTS, L.P.**, an Illinois limited partnership ("Assignor"), to and for the benefit of **JPMORGAN CHASE BANK, N.A.**, a national banking association with an address at Community Development Group, 10 South Dearborn Street, Mail Code IL1-0953, Chicago, Illinois 60603 Attention: John D. Bernhard, its successors and assigns ("Assignee").

### RECITALS:

A. Assignee has agreed to make loans to Assignor in the stated aggregate principal amount of Nine Million Six Hundred Thousand and No/100 Dollars (\$9,600,000) (the "Loan"). The Loan is made pursuant to the terms and conditions of that certain Building Loan Agreement by and between Assignor and Assignee of even date herewith (as amended from time to time, the "Loan Agreement").

B. A condition precedent to Assignee's making of the Loan is the execution and delivery by Assignor of this Assignment.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

1. **Definitions.** All capitalized terms which are not defined herein or in the Loan Agreement shall have the meanings ascribed thereto in that certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith from Assignor for the benefit of Assignee (as amended, modified, replaced or restated from time to time, "Mortgage") given as security for Borrower's obligations under the Note and the Loan Agreement.

2. **Grant of Security Interest.** Assignor hereby grants, transfers, sets over and assigns to Assignee, all of the right, title and interest of Assignor in and to (i) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the land legally described on **Exhibit A** attached hereto and made a part hereof (the "Land") and all buildings and other improvements located thereon (said Land and improvements being hereinafter referred to collectively as the "Premises"), including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases (collectively, "Leases") now or hereafter existing, of all or any part of the Premises including without limitation the leases listed on **Exhibit B** attached hereto and made a part hereof together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (v) all tenant improvements and fixtures located on the Premises. This Assignment is an absolute transfer and assignment of the foregoing interests to Assignee given to secure:

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(a) Payment by Assignor when due of (i) the indebtedness evidenced by the Note and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to Assignee by Assignor under or with respect to the Loan Documents (as defined in the Loan Agreement); and (iii) all costs and expenses paid or incurred by Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

(b) Observance and performance by Assignor of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Assignor or any other obligor to or benefiting Assignee which are evidenced or secured by or otherwise provided in the Loan Agreement, this Assignment or any of the other Loan Documents, together with all amendments and modifications thereof.

3. **Representations and Warranties of Assignor.** Assignor represents and warrants to Assignee that as of the date hereof:

(a) this Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) there are no Leases affecting any portion of the Premises;

(c) with the exception of the assignments or liens created by the Permitted Exceptions (including subordinate assignments of the Leases contained within the Subordinate Loan Documents), there are no other existing assignments of Assignor's entire or any part of its interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has Assignor entered into any agreement to subordinate any of the Leases or Assignor's right to receive any of the rents, issues, income or profits assigned hereunder; and

(d) Other than the Permitted Exceptions, Assignor has not executed any instrument or performed any act which may prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation.

4. **Covenants of Assignor.** Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) Assignor shall not lease any portion of the Premises unless Assignor obtains Assignee's prior written consent to all aspects of such lease, which consent shall not be unreasonably withheld, provided however that Assignee may lease individual housing units pursuant to an Approved Lease (as defined in the Loan Agreement) and at rental rates consistent with the budget approved by Assignee, subject to such requirements as may be applicable for continued compliance with applicable Tax Credits (as defined in the Loan Agreement), laws, rules and regulations or other restrictions set forth in the Permitted Exceptions.

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(b) Assignor shall observe and perform all of the material covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Assignor shall not do or suffer to be done anything to impair the security thereof (except in compliance with Assignor's non-eviction policy for tenants with a demonstrated financial inability to pay rent). Except as may be consistent with the standard business practices of the operation of a low income housing tax credit development or as may be required by law, Assignor shall not (i) release the liability of any tenant under any Lease, (ii) consent to any tenant's withholding of rent or making monetary advances and off-setting the same against future rentals, (iii) consent to any tenant's claim of a total or partial eviction, (iv) consent to a tenant termination or cancellation of any Lease, except as specifically provided therein, or (v) enter into any oral leases with respect to all or any portion of the Premises;

(c) Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than one month in advance of the time when the same shall become due, except for security or similar deposits;

(d) Except for subordinate rights granted in the Leases under any of the Permitted Exceptions, Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents;

(e) Except as may be consistent with the standard business practices of the operation of a low income housing tax credit development, Assignor shall not, without the prior written consent of Assignee: (i) materially modify the terms and provisions of any Lease; (ii) give any consent to or approval of any assignment of, or subletting under, any Lease (except as expressly permitted thereby) unless the giving of such consent or approval does not materially adversely affect Lender's interest in any of the Leases or otherwise violate the Loan Documents or any agreements binding on Assignor or the Premises; or (iii) cancel or terminate any Lease; provided, however, that Assignor may cancel or terminate any Lease as a result of a default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Lease;

(f) Except as may be consistent with the standard business practices of the operation of a low income housing tax credit development, Assignor shall not accept a surrender of any Lease or convey or transfer, or suffer or permit a conveyance or transfer, of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder;

(g) Except as may be consistent with the standard business practices of the operation of a low income housing tax credit development, Assignor shall not materially alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything which would terminate any such guaranty as a matter of law;

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(h) Assignor shall not waive or excuse the obligation to pay rent under any Lease except in the ordinary course of business consistent with Assignor's prudent business judgment and in accordance with Assignor's non-eviction policy for tenants with a demonstrated financial inability to pay rent;

(i) Assignor shall, or shall cause the Property Manager (as defined in the Loan Agreement), at Assignor's sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of Assignee, including court costs and reasonable attorneys' fees, in any such action or proceeding in which Assignee may appear;

(j) Assignor shall give prompt notice to Assignee of any notice received from any tenant or guarantor under any Lease of any substantial default by the lessor thereunder;

(k) Except as may be consistent with the standard business practices of the operation of a low income housing tax credit development, Assignor shall enforce the observance and performance of each material covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenants and guarantors thereunder;

(l) Assignor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby the Permitted Exceptions described in the Mortgage, or liens for general real estate taxes or payments in lieu of taxes not delinquent;

(m) If any tenant under any Lease is or becomes the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Assignor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages in excess of \$10,000 shall be made without the prior written consent of Assignee, such consent not to be unreasonably withheld, and any check in payment of damages in excess of \$10,000 for termination or rejection of any such Lease will be made payable both to Assignor and Assignee. Assignor hereby assigns any such payment to Assignee and further covenants and agrees that upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which shall be applied in accordance with the provisions of Paragraphs 5 and 8 below; and

(n) Upon the request of Assignee, Assignor shall deliver to Assignee a certified rent roll for the Premises as of the last day of the month prior to such request in a form reasonably satisfactory to Assignee.

5. **Rights Prior to Default.** Unless or until a Default (as defined in Paragraph 6) shall occur and shall be continuing, Assignor shall have the right to collect, at the time (but in no

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event more than thirty days in advance) provided for the payment thereof, all rents, revenues, issues, income profits, proceeds, receipts, income, accounts and other receivables assigned hereunder, and to retain, use and enjoy the same. Upon the occurrence of and during the continuance of a Default, Assignor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to Assignor. Assignee shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

6. **Default.** A "Default" shall occur under this Assignment upon the occurrence of (a) a breach by Assignor of any of the covenants, agreements, representations, warranties or other provisions hereof which is not cured or waived within the applicable grace or cure period, if any, set forth in the Mortgage (or if no cure period is specified then 30 days from such default) or (b) any other Default described in the Mortgage or the other Loan Documents which is not cured or waived within the applicable grace or cure period set forth therein (or if no cure period is specified then 30 days from such default).

7. **Rights and Remedies Upon Default.** At any time upon or following the occurrence and during the continuance of any Default, Assignee, at its option, may exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor or any guarantor of Assignor's obligations under the Loan Agreement from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by the Loan Documents:

- (a) Exercise Assignee's rights and remedies under the Loan Agreement;
- (b) Enter upon and take possession of the Premises, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, to make, enforce, modify and accept the surrender of Leases, to obtain and evict tenants provided Assignee complies with all applicable laws, rules and regulations (including until such time as a foreclosure is completed, or a deed in lieu of foreclosure is accepted by Assignee, the Regulatory Agreement between the City of Chicago and Assignor, which serves as the extended use agreement for the Tax Credits (the "Extended Use Agreement")), to fix or modify rents, and to do any other act which Assignee reasonably deems necessary or proper;
- (c) Either with or without taking possession of the Premises, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Premises and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Assignment shall constitute an authorization and direction to the tenants under the Leases to pay all rents and other amounts payable under the Leases to Assignee, without proof of default hereunder, upon receipt from Assignee of written notice to thereafter pay all such rents and other amounts to Assignee and to comply with any notice or demand by Assignee for observance or

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performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the tenants thereunder, and Assignor shall facilitate in all reasonable ways Assignee's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases to thereafter pay all such rents and other amounts to Assignee; and

(d) Make any payment or do any act required herein of Assignor in such manner and to such extent as Assignee may deem necessary, and any amount so paid by Assignee shall become immediately due and payable by Assignor with interest thereon until paid at the Default Rate (as defined in the Note) and shall be secured by this Assignment.

8. **Application of Proceeds.** All sums collected and received by Assignee out of the rents, issues, income and profits of the Premises following the occurrence of any one or more Defaults shall be applied to satisfy Assignee's obligations under the Loan Documents in accordance with applicable Illinois law, and, unless otherwise specified therein, in such order as Assignee shall elect in its reasonable discretion.

9. **Limitation of Assignee's Liability.** Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Premises or from any other act or omission, except for Assignee's grossly negligent acts or omissions or those constituting willful misconduct by Assignee, of Assignee in managing, operating or maintaining the Premises following the occurrence of Default. Assignee shall not be obligated to observe, perform or discharge, nor does Assignee hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of Assignor under or by reason of this Assignment, until such time, if any that Assignee is in actual possession of the Premises following the occurrence of Default Assignor shall and does hereby agree to indemnify, defend (using counsel reasonably satisfactory to Assignee) and hold Assignee harmless from and against any and all liability, loss or damage which Assignee actually incurs under any Lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall Assignor be liable for any liability, loss or damage which Assignee incurs as a result of Assignee's grossly negligent acts or omissions or willful misconduct. Should Assignee incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including reasonable costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by Assignor with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility upon Assignee for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Premises by any tenant, occupant or other party, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing set forth

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herein or in the Mortgage, and no exercise by Assignee of any of the rights set forth herein or in the Mortgage shall constitute or be construed as constituting Assignee a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by Assignee pursuant to the provisions hereof or of the Mortgage.

10. **No Waiver**. Nothing contained in this Assignment and no act done or omitted to be done by Assignee pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under any of the Loan Documents. This Assignment is made and accepted without prejudice to any of the rights and remedies of Assignee under the terms and provisions of such instruments, and Assignee may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Assignee may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

11. **Further Assurances**. Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Assignee may designate) and shall do or cause to be done such further acts, as Assignee may request, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Assignment.

12. **Security Deposits**. Assignor acknowledges that Assignee has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that Assignee assumes no responsibility or liability for any security so deposited (unless and until Assignee takes possession of the Premises and such deposits).

13. **Severability**. If any provision of this Assignment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Assignee and Assignor shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Assignment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. **Successors and Assigns**. This Assignment is binding upon Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of Assignee under this Assignment shall inure to the benefit of Assignee and its successors and assigns.

15. **Written Modifications**. This Assignment shall not be amended, modified or supplemented without the written agreement of Assignor and Assignee at the time of such amendment, modification or supplement.

16. **Duration**. This Assignment shall become null and void at such time as Assignor shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the other Loan



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Documents as evidenced by a satisfaction or release of mortgage being filed with the Cook County Recorder of Deeds.

17. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

18. **Notices.** All notices, demands, requests and other correspondence which are required or permitted to be given hereunder shall be deemed sufficiently given when delivered or mailed in the manner and to the addresses of Assignor and Assignee, as the case may be, as specified in the Mortgage.

19. **Jury Waiver.** ASSIGNOR AND ASSIGNEE (BY ITS ACCEPTANCE HEREOF) EACH HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH OF ASSIGNOR AND ASSIGNEE (BY ITS ACCEPTANCE HEREOF) (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

20. **Waiver of Special Damages.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, ASSIGNOR SHALL NOT ASSERT, AND HEREBY WAIVES, ANY CLAIM AGAINST ASSIGNEE, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS ASSIGNMENT OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS, THE LOAN OR THE USE OF THE PROCEEDS THEREOF.

**[Signature Page Follows]**

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**IN WITNESS WHEREOF**, Assignor has executed and delivered this Assignment as of the day and year first above written.

**ASSIGNOR:**

**Harvest Homes Apartments, L.P.,**  
an Illinois limited partnership

By: Harvest Homes GP, LLC,  
an Illinois limited liability company,  
its general partner

By: The People's Community Development  
Association of Chicago,  
an Illinois not-for-profit corporation,  
a member

By:   
Rev. Michael Eaddy, President

By: The NHP Foundation,  
a District of Columbia not-for-profit  
corporation,  
a member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Property of Cook County Clerk's Office

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**Harvest Homes Apartments, L.P.,**  
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By: Harvest Homes GP, LLC,  
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a member

By: \_\_\_\_\_  
Rev. Michael Eaddy, President

By: The NHP Foundation,  
a District of Columbia not-for-profit  
corporation,  
a member

By:   
Name: PATRICK J. FAY  
Its: SENIOR VICE PRESIDENT

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## Exhibit A Legal Description

### \*\*\*PARCEL 1:

LOTS 38 THROUGH 43 INCLUSIVE IN BLOCK 7 IN CENTRAL PARK ADDITION TO CHICAGO, A SUBDIVISION OF THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF BARRY POINT ROAD, IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

LOTS 31 THROUGH 37 INCLUSIVE IN BLOCK 7 IN CENTRAL PARK ADDITION TO CHICAGO, A SUBDIVISION OF THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF BARRY POINT ROAD, IN COOK COUNTY, ILLINOIS. \*\*\*

PERMANENT REAL ESTATE INDEX NO. 16-14-214-024-0000, Vol. 560

Affects: Lots 31 through 35 and Lot 36 except the East 19.5 feet of Parcel 2

PERMANENT REAL ESTATE INDEX NO. 16-14-214-028-0000, Vol. 560

Affects: East 21 feet of Lot 40 and all of Lot 41 of Parcel 1

PERMANENT REAL ESTATE INDEX NO. 16-14-214-029-0000, Vol. 560

Affects: Lots 42 and 43 of Parcel 1

PERMANENT REAL ESTATE INDEX NO. 16-14-214-030-0000, Vol. 560

Affects: East 19.5 feet of Lot 36 and all of Lot 37 of Parcel 2 and all of Lots 38 and 39 and the West 4 feet of Lot 40 of Parcel 1

Address: Vacant land  
3534 W. Fifth Avenue  
Chicago, Illinois