

# UNOFFICIAL COPY



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Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 06/24/2016 03:51 PM Pg: 1 of 9

**THIS DOCUMENT WAS PREPARED BY:**

Arieh Flemenbaum, Esq.  
Illinois Housing Development Authority  
401 N. Michigan, Suite 700  
Chicago, Illinois 60611

**AFTER RECORDING THIS DOCUMENT SHOULD BE RETURNED TO:**

Illinois Housing Development Authority  
401 N. Michigan, Suite 700  
Chicago, Illinois 60611  
Attention: Hardest Hit Fund

**Property Identification No.:**

15-10-201-011

**Property Address:**

606 N 15Th Ave # 608  
Melrose Park, Illinois

**Illinois Hardest Hit Fund  
Mortgage Resolution Fund Program**

(The Above Space for Recorder's Use Only)

## RECAPTURE AGREEMENT

THIS RECAPTURE AGREEMENT (this "Agreement") dated as of the 27<sup>th</sup> day of March, 2015, made by Francisco Gomez [and Omar Ulloa] (insert marital status: **an unmarried man, an unmarried women, husband and wife**) (the "Owner") whose address is 606 N 15Th Ave # 608 Melrose Park, Illinois, in favor of the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY** (the "Authority") a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 et seq., as amended from time to time (the "Act"), and the rules promulgated under the Act, as amended and supplemented (the "Rules") whose address is 401 North Michigan Avenue, Suite 700, Chicago, Illinois.

### WITNESSETH:

WHEREAS, the Owner is the owner of the fee estate of that certain real property which is commonly known as 606 N 15Th Ave # 608 Melrose Park, Illinois and all the improvements now or hereafter located thereon and which is legally described on Exhibit A attached to and made a part of this Agreement (the "Residence"); and

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**WHEREAS**, the Authority has agreed to make a forgivable loan to the Owner in an amount not to exceed seven thousand two hundred fifty dollars (\$7,250) (the "Forgivable Loan") pursuant to the Authority's Illinois Hardest Hit Fund Mortgage Resolution Fund Program (the "Program");

**WHEREAS**, in addition to this Agreement, the Forgivable Loan is evidenced, secured and governed by the following documents which have been entered into contemporaneously with the execution of this Agreement: (a) the Forgivable Loan Agreement between the Owner and the Authority (the "Forgivable Loan Agreement"), (b) the Promissory Note from the Owner to the Authority (the "Note") and (c) all other documents that evidence, govern or secure the Forgivable Loan (the "Ancillary Loan Documents"). This Agreement, the Forgivable Loan Agreement, the Note and the Ancillary Loan Documents are collectively referred to herein as the "Loan Documents";

**WHEREAS**, terms not otherwise defined herein shall have the meaning ascribed thereto in the Forgivable Loan Agreement; and

**WHEREAS**, as an inducement to the Authority to make the Forgivable Loan, the Owner has agreed to provide this Agreement.

**NOW, THEREFORE**, the parties agree as follows:

1. **1. Incorporation.** The foregoing recitals are made a part of this Agreement. The Forgivable Loan Agreement and all of the other Loan Documents are each incorporated by reference into and made a part of this Agreement.
2. **Recapture.**
  - a. As a condition to the Authority's making of the Forgivable Loan, the Owner agrees to repay to the Authority the Repayment Amount (as defined in subparagraph b. below) if one or more of the following events (each such event is called a "Recapture Event") occurs before the Termination Date (as defined in Paragraph 3 below):
    - (i) the Owner sells, conveys or transfers title to the Residence and there are Net Proceeds;
    - (ii) the Owner refinances the Residence in a manner such that it is not a Permitted Refinancing (as defined below); or
    - (iii) an Event of Default (as defined in Paragraph 4 below) occurs pursuant to the terms of any of the Loan Documents.

The following events (each such event is called a "Permitted Transfer") are *not* Recapture Events:

- (v) a transfer to a spouse as a result of a divorce;

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- (vi) a transfer by operation of law to a surviving spouse upon the death of a joint tenant Owner;
- (vii) a transfer by will; or
- (viii) a Permitted Refinancing.

The term "Permitted Refinancing" means a refinancing that lowers the interest rate of the first mortgage loan on the Residence, decreases its term or lowers the monthly payment of the loan; it does not include a refinancing that increases the outstanding balance of the first mortgage loan, increases the interest rate on the loan or allows the Owner to receive money as a result of the refinancing.

b. If a Recapture Event occurs before the Termination Date, the Owner shall pay to the Authority the full amount of the Forgivable Loan reduced by 1/60th of that amount for each full month the Owner has occupied the Residence after the fifth (5<sup>th</sup>) anniversary of the date of this Agreement (collectively referred to herein as the "Repayment Amount"). Notwithstanding the foregoing, (i) if the Repayment Amount is greater than the Net Proceeds, the Owner must pay only the amount of the Net Proceeds, and the amount of the Repayment Amount in excess of the Net Proceeds shall be forgiven, or (ii) if there are no Net Proceeds then the full amount of the Forgivable Loan shall be forgiven. For purposes of this Agreement, "Net Proceeds" means the proceeds of the sale or transfer of the Residence after payment of reasonable and customary closing costs and expenses less the amount of any documented capital improvement costs to the Residence incurred by the Owner after the funding of the Forgivable Loan.

### **3. Covenants to Run With the Land; Self-Operative Termination Provision.**

This Agreement shall encumber the Residence and be binding on any future owner of the Residence and the holder of any legal, equitable or beneficial interest in it for ten (10) years from the date of this Agreement (the "Termination Date"); provided, however, that: (a) if no Recapture Event occurs before the Termination Date; (b) if any sale, conveyance or transfer of the Residence occurs due to a foreclosure or a deed in lieu of foreclosure; (c) if any Permitted Transfer occurs; or (d) if a Permitted Refinancing occurs, this Agreement shall automatically terminate and shall be deemed to have been released and this release provision shall be self-operative without the need, necessity or requirement for the Authority to record a written release or termination of this Agreement.

**4. Event of Default.** The following shall constitute a default under this Agreement (an "Event of Default"): (a) Owner's failure to make any payment due under Owner's Senior Instruments (as defined in the Forgivable Loan Agreement), (b) any default under any of the Senior Instruments or if the right to foreclose the Senior Instruments accrues to holder of any of the Senior Instruments, or (c) any default (any Event of Default) under the Forgivable Loan Agreement, the Note or any of the other Loan Documents which is not cured within any applicable grace or cure period, if any. The Authority shall give written notice of an Event of Default to Owner at the Residence. Upon an Event of Default the Authority may:

- a. Declare the unforgiven portion of the Forgivable Loan immediately due and payable and require the Owner to pay the Repayment Amount;

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- b. Refuse to subordinate this Agreement to any subsequently recorded document or lien; and/or
- c. the Authority may proceed to exercise any other rights and remedies available to the Authority under the Loan Documents; or
- d. Exercise any other rights and remedies that may be available at law, in equity or otherwise.

The Authority's remedies are cumulative and the exercise of one shall not be deemed an election of remedies, nor foreclose the exercise of the Authority's other remedies. No delay on the part of the Authority in exercising any rights hereunder, failure to exercise such rights or the exercise of less than all of its rights shall operate as a waiver of any such rights.

5. **Amendment.** This Agreement shall not be altered or amended without the prior written approval of the Authority.

6. **Partial Invalidity.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

7. **Gender.** The use of the plural in this Agreement shall include the singular; the singular shall include the plural; and the use of any gender shall be deemed to include all genders.

8. **Captions.** The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or the intent of the agreement.

9. **WAIVER OF JURY TRIAL.** THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FORGIVABLE LOAN OR THIS AGREEMENT.

10. **SUCCESSORS.** This Agreement shall bind, and the benefits shall inure to, the parties hereto, their legal representatives, successors in office or interest and assigns, provided that the Owner may not assign this Agreement, its right to the Forgivable Loan proceeds or any of its obligations hereunder without the prior written approval of the Authority, which may be withheld or conditioned in the Authority's sole discretion.

11. **JOINT AND SEVERAL LIABILITY.** If more than one party is executing this Agreement, then all such parties executing this Agreement agree to be jointly and severally bound by it.

**[Signature Page Follows]**

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IN WITNESS WHEREOF, the Owner has executed this Agreement as of the date and year first above written.

*Francisco Gomez*  
Printed Name: Francisco Gomez

*Omar Ulloa*  
Printed Name: Omar Ulloa

Property of Cook County Clerk's Office

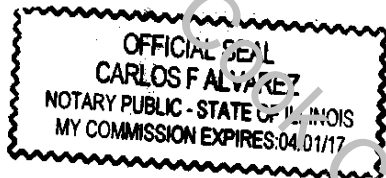
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STATE OF ILLINOIS     )  
  ) SS  
Cook COUNTY            )

I, CARLOS F. ALVAREZ, a Notary Public in and for said county and state, do hereby certify that OMARA OLIVA & FRANCISCO GOMEZ 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 \_\_\_ signed and delivered the said instrument as A free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this 27th day of March, 2015.

Carlos F. Alvarez  
\_\_\_\_\_  
Notary Public



My commission expires: 04-01-2017

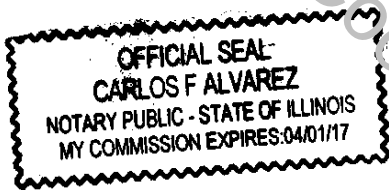
# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) SS  
Cook COUNTY )

I, CARLOS F. ALVAREZ a Notary Public in and for said county and state, do hereby certify that OMAR A. OLLVA & FRANCISCO GOMEZ 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 \_\_\_ signed and delivered the said instrument as A free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this 27th day of MARCH, 2015.

Carlos F. Alvarez  
Notary Public



My commission expires: 04-01-2017

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## EXHIBIT A

### Legal Description

LOT 10 (EXCEPT THE SOUTH 8 FEET AND 8 INCHES THEREOF) AND ALL OF LOTS 11 AND 12 IN BLOCK 69 IN MELROSE, A SUBDIVISION OF LOTS 3, 4 AND 5 IN THE SUPERIOR COURT PARTITION OF THE SOUTH ½ OF SECTION 3, AND ALL OF SECTION 10 LYING NORTH OF THE CHICAGO AND NORTHWESTERN RAILROAD, IN TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address:

606 N 15Th Ave # 608  
Melrose Park, IL

Permanent Index No.:

15-10-201-011



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## Illinois Hardest Hit Fund Mortgage Resolution Fund

### PRIVACY NOTICE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY ("IHDA") would like to advise you (the "Borrower") of its privacy policies. As your lender, IHDA has collected non-public personal information from your application and consumer reporting agencies. This non-public personal information includes your address and other contact information, demographic background, loan status, family income, social security number, employment information, collection and repayment history and credit history.

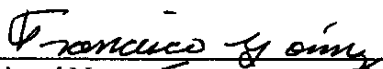
We disclose non-public personal information to third parties only as necessary to process and service your loan, with your consent and as permitted or provided by applicable laws, including the Illinois Freedom of Information Act ("FOIA") and the Privacy Act of 1974. Applicable laws permit disclosure to third parties for certain purposes. Examples of such disclosures include (i) disclosure in connection with enforcement purposes or litigation, audits or other investigations; (ii) to comply with proper requests under FOIA or other federal, state, or other local laws and regulations; and (iii) to federal and state agencies to the extent specifically permitted or required by law. We do not sell or otherwise make available any information about you to any third parties for marketing purposes.


We protect the security and confidentiality of non-public personal information by limiting and monitoring all physical access to sites where non-public personal information is kept.

If we decide to change our privacy policy, we will provide you with a revised privacy policy containing such changes.

### ILLINOIS HOUSING DEVELOPMENT AUTHORITY

The Borrower by the signature(s) below hereby acknowledges receipt of the foregoing Privacy Notice from the Illinois Housing Development Authority on this 27<sup>th</sup> day of March, 2015.

  
Printed Name: Francisco Gomez

  
Printed Name: Omar Ulloa