

UNOFFICIAL COPY

THIS DOCUMENT WAS PREPARED BY:
Hardest Hit Fund Department
Illinois Housing Development Authority
111 E. Wacker Drive STE 1000
Chicago, Illinois 60601

Doc#: 1635157199 Fee: \$46.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/16/2016 01:43 PM Pg: 1 of 5

AFTER RECORDING THIS DOCUMENT
SHOULD BE RETURNED TO:
Illinois Housing Development Authority
111 E. Wacker Drive STE 1000
Chicago, Illinois 60601
Attention: Hardest Hit Fund

Property Identification No.:
19-09-323-003-0000

Property Address:
5253 W 53rd Pl, Chicago, IL 60638

Illinois Hardest Hit Fund
Home Preservation Program –
I-Refi Program

(The Above Space for Recorder's Use Only)

1674914 2/2
Old Republic Title
9601 Southwest Highway
Oak Lawn, IL 60453
RECAPTURE AGREEMENT
(I-REFI Program)

THIS RECAPTURE AGREEMENT (I-Refi Program) (this "Agreement") dated as of 25th day of November, 2016, made by Martin Casas married to Maria L. Casas [insert marital status: husband and wife, as tenants by the entirety] (the "Owner") whose address is 5253 W 53rd Pl, Chicago, 60638, 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 111 E. Wacker Drive STE 1000, Chicago, Illinois.

WITNESSETH:

WHEREAS, the Owner is the owner of the fee estate of that certain real property which is commonly known as 5253 W 53rd Pl, Chicago, 60638, 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");

WHEREAS, the Authority has agreed to provide forgivable assistance to the Owner in an amount not to exceed Forty four thousand six hundred fifteen dollars (\$ 44,615.00) the "Forgivable Assistance") pursuant to the Authority's Illinois Hardest Hit Fund Home Preservation Program – I-Refi Program (the "Program");

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

WHEREAS, terms not otherwise defined herein shall have the meaning ascribed thereto in the Note; and

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

UNOFFICIAL COPY

NOW, THEREFORE, the parties agree as follows:

1. **Incorporation.** The foregoing recitals are made a part of this Agreement.

2. **Recapture.**

a. As a condition to the Authority's making of the Forgivable Assistance, 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) an Event of Default (as defined in Paragraph 4 below) occurs pursuant to the terms of any of the I-Refi Documents.

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

- (iii) a transfer to a spouse as a result of a divorce;
- (v) a transfer by operation of law to a surviving spouse upon the death of a joint tenant Owner;
- (vi) a transfer by will.

b. If a Recapture Event occurs before the Termination Date, the Owner shall pay to the Authority the full amount of the Forgivable Assistance reduced by 1/36th of that amount for each full month the Owner has occupied the Residence after 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 Assistance 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 (i) the amount of any documented capital improvement costs to the Residence incurred by the Owner after the date of this Agreement and as approved by the Authority, in its sole discretion, and (ii) the Owner's initial contribution to the cost of acquiring the Residence.

3. **Covenants to Run With the Land; Self-Operative Termination Provision; Required HUD 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 three (3) years from the date of this Agreement (the "Termination Date"); provided, however: that: (a) if no Recapture Event occurs before the Termination Date; or (b) if any sale, conveyance or transfer of the Residence occurs due to a foreclosure or a deed in lieu of foreclosure; 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. Notwithstanding, anything to the contrary contained herein, the restrictions contained in this Agreement shall automatically terminate if title to the Residence is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage for the First Mortgage Loan is assigned to the Secretary of the United States Department of Housing and Urban Development.

4. **Cooperation and Records.** The Owner understands and agrees that the Owner shall cooperate at all times with the Authority and will do all acts necessary to comply with the Program and the HHF Program. At the request of the Authority, the Owner shall furnish such records and information as required by the Authority in connection with the Program and the HHF Program.

UNOFFICIAL COPY

5. **Indemnification.** The Owner hereby agrees to indemnify the Authority and its respective officers, members, directors, agents and employees against, and save them harmless from and against, any and all claims, actions, damages, costs, liabilities and expenses, including without limitation attorneys' fees, incurred as a result of (a) the Owner's negligence, misconduct, fraud, misappropriation of funds or criminal activity; (b) the servicer, the lender of the First Mortgage Loan or other lenders failing to properly apply the disbursement of the Forgivable Assistance; and/or (c) the sale of the First Mortgage Loan to a servicer which is not a party to a servicing agreement with the Authority.

6. **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 this Agreement, or (b) if the Owner commits fraud under the I-Refi Documents or pursuant to the Program as determined by a court of competent jurisdiction ("Fraud"). (c) a breach by the Owner of any of their legal representations, certifications, warranties or covenants contained in the performance of any of their obligations under this Agreement or the I-Refi Documents. 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 Assistance immediately due and payable;
- b. Refuse to subordinate this Agreement to any subsequently recorded document or lien; and/or
- c. For the commission of Fraud only, exercise such other rights or remedies as may be available to the Authority hereunder or under any of the I-Refi Documents, at law or in equity.

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.

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

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

9. **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.

10. **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.

11. **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 ASSISTANCE OR THIS AGREEMENT.

[Signature Page Follows]

UNOFFICIAL COPY

EXHIBIT A

Legal Description

LOT 2 IN BLOCK 14 IN HETZEL'S ARCHER AVENUE ADDITION , A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address:

5253 W 53rd Pl

Chicago, IL 60638

Permanent Index No.:

19-09-323-003-0000

UNOFFICIAL COPY

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

Martin Casas

Printed Name: Martin Casas

Printed Name: _____

STATE OF ILLINOIS

COUNTY OF

Cook

} SS

I, Marisol Rocha

, a Notary Public

in and for said county and state, do hereby certify that Martin Casas 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 they signed and delivered the said instrument as their free and voluntary act, for the uses and purposes set forth.

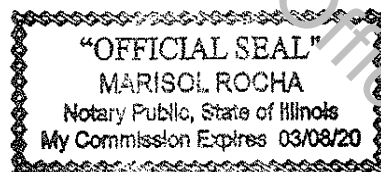
Given under my hand and official seal, this 25th day of November, 2016.

Marisol Rocha

Notary Seal

My commission expires:

3/8/20



Notary Public (signature)