

# UNOFFICIAL COPY

Doc#: 1808257036 Fee: \$72.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 03/23/2018 01:01 PM Pg: 1 of 13

When recorded this instrument should be returned to:

Chicago Title Insurance Company ~  
National Commercial Services | Chicago  
10 South LaSalle St., Suite 3100  
Chicago, Illinois 60603  
Attention: Jason Hissong

This instrument was drafted by:

Todd J. Amalf  
Moss & Barnett  
150 South Fifth Street, Suite 1200  
Minneapolis, MN 55402  
612-877-5000  
Loan No. 00-1102859

18003256ANL 2 of 2

[Above space reserved for recording information.]

Common Address:	510-524 West Wellington Avenue, Chicago, Illinois
Permanent Tax Index No.:	14-25-108-022-0000
Common Address:	3610 North Pine Grove Avenue, Chicago, Illinois
Permanent Tax Index No.:	14-21-109-014-0000
Common Address:	718 West Irving Park Road, Chicago, Illinois
Permanent Tax Index No.:	14-16-305-017-0000
Common Address:	725-747 West Irving Park Road, Chicago, Illinois
Permanent Tax Index No.:	14-21-100-011-0000
Common Address:	3937-3939 North Clarendon Avenue, Chicago, Illinois
Permanent Tax Index No.:	14-21-100-002-0000 and 14-21-100-003-0000

## ASSIGNMENT OF LEASES, RENTS AND PROFITS

DATED AS OF March 20, 2018

FROM

BIG CHUTE LLC, an Illinois limited liability company,  
PHOENIX BOWL LLC, an Illinois limited liability company,  
PINBALL LLC, an Illinois limited liability company,  
TEOCALLI BOWL LLC, an Illinois limited liability company,  
and KEYHOLE LLC, an Illinois limited liability company

TO

NATIONWIDE LIFE INSURANCE COMPANY, an Ohio corporation

Legal Description: See Exhibit A.

56952.21; 3/19/2018  
3953277v3 03/16/2018

Loan No. 00-1102859  
Newcastle Lakeview Apartment Portfolio 1

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Version 20170310

## ASSIGNMENT OF LEASES, RENTS AND PROFITS

This ASSIGNMENT OF LEASES, RENTS AND PROFITS (the "Assignment") is executed as of March 20, 2018, by BIG CHUTE LLC, an Illinois limited liability company, PHOENIX BOWL LLC, an Illinois limited liability company, PINBALL LLC, an Illinois limited liability company, TEOCALLI BOWL LLC, an Illinois limited liability company, and KEYHOLE LLC, an Illinois limited liability company, having its collective principal office at 150 North Michigan Avenue, Suite 3610, Chicago, Illinois 60601 (collectively, "Borrower"), to and in favor of NATIONWIDE LIFE INSURANCE COMPANY, an Ohio corporation, together with its successors and assigns, having its principal office at One Nationwide Plaza, Fifth Floor, Columbus, Ohio 43215, Attention: Real Estate Investments, 1-5-701 (collectively, "Lender").

### RECITALS:

A. Borrower is the present owner in fee simple of certain real property located in the City of Chicago, County of Cook, State of Illinois (the "State"), and being more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Real Property").

B. Lender has made a loan to Borrower in the principal sum of Thirty-Seven Million Five Hundred Thousand and 00/100 Dollars (\$37,500,000.00) (the "Loan") as evidenced by that certain Promissory Note of even date herewith (as the same may be amended, extended, renewed, restated, replaced, supplemented or otherwise modified from time to time, the "Note"), which Note is secured by that certain Mortgage and Security Agreement and Fixture Financing Statement of even date herewith (as the same may be amended, extended, renewed, restated, replaced, supplemented or otherwise modified from time to time, the "Security Instrument" encumbering the Real Property and other property more specifically described in the Security Instrument (all of which property is referred to herein and in the Security Instrument as, the "Property").

C. Lender, as a condition to making the Loan and to obtain additional security therefor, has required the execution of this Assignment by Borrower. The Loan is governed by that certain Loan Agreement dated as of the date hereof by and between Borrower and Lender (as the same may be amended, extended, renewed, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement") (capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Agreement, as applicable).

56952.21; 3/19/2018

Loan No. 00-1102859  
Newcastle Lakeview Apartment Portfolio I

3953277v3 03/16/2018

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IN CONSIDERATION of the principal sum of the Note and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

1. Assignment. In order to further secure the payment of the Loan, Borrower irrevocably, absolutely and unconditionally assigns, transfers, and sets over to Lender, its successors and assigns, all of the right, title, interest, and estate that Borrower may now or later have in, to and under (a) the Leases; (b) the Rents; (c) the right to collect and receive all the Rents; and (d) the right to enforce and exercise, whether at law or in equity or by any other means, all terms and conditions of the Leases; PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE FOREGOING OR ANY OTHER PROVISION OF THIS ASSIGNMENT, THIS ASSIGNMENT SHALL NOT INCLUDE ANY TENANT SECURITY DEPOSITS WHICH ARE SUBJECT TO ANY APPLICABLE LAW, ORDINANCE, RULE OR REGULATION WHICH PROHIBITS BORROWER FROM ENCUMBERING SUCH SECURITY DEPOSITS, INCLUDING THE CITY OF CHICAGO RESIDENTIAL LANDLORD AND TENANT ORDINANCE. This Assignment is intended by Borrower and Lender to constitute a present absolute assignment and not a collateral assignment for additional security only. Upon full payment of the Indebtedness, satisfaction of the Obligations and written request by Borrower, Lender shall transfer, set over, and assign to Borrower all right, title, and interest of Lender in, to, and under the Leases and the Rents.

2. License. Until an Event of Default occurs, Borrower shall have a revocable license (the "License") from Lender to exercise all rights extended to the landlord under the Leases. Prior to the occurrence of an Event of Default, Borrower may use, distribute and enjoy all Rents, subject to any applicable restrictions contained in the Loan Agreement.

3. Revocation. Upon the occurrence of an Event of Default, whether or not legal proceedings have commenced and without regard to waste, adequacy of security for the Indebtedness, the Obligations or the solvency of Borrower, the License shall automatically terminate without notice by Lender (any such notice being expressly waived by Borrower). Upon such termination, (i) Borrower shall deliver to Lender within five (5) days after written notice from Lender (a) all Rents (including prepaid Rents) held or collected by Borrower from and after the date of the Event of Default, (b) all security or other deposits paid pursuant to the Leases to be held and applied by Lender solely as provided in the Leases, and (c) all charges previously paid by tenants under the Leases for services, facilities or escalations to the extent allocable to any period after the Event of Default. Borrower agrees and stipulates that upon execution of this Assignment, Borrower's only interest in the Leases or Rents is as a licensee revocable upon an Event of Default.

4. Rent Collection. To the fullest extent permitted by applicable law, upon and following the occurrence of an Event of Default, Borrower further agrees that it will cooperate with and facilitate in all reasonable ways Lender's collection of the Rents in accordance with the

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terms of the Loan Documents, and will, upon request by Lender, execute a written notice (the "Tenant Notice") to each tenant, occupant, licensee or governmental entity at the Property (collectively or individually, the "Tenant") directing said Tenant to pay all Rents, which are due and payable, directly to Lender; provided, however, Lender may notify any Tenant of the effectiveness of this Assignment without first giving notice to Borrower or requesting Borrower to execute Tenant Notice(s). Borrower acknowledges that following Tenant's receipt of such notice Borrower shall have no right or claim against Tenant for or by reason of any payments of rent or other charges made by Tenant to Lender pursuant to this Assignment.

5. Application of Rents. The Rents collected by Lender, after it commences exercising its rights under this Assignment, shall be applied in such order and manner of application as Lender may elect (notwithstanding the fact that the amount owing thereon may not then be due and payable or that the Indebtedness may otherwise be adequately secured). The Rents received by Lender hereunder and applied by Lender to the amounts due and owing by Borrower shall not serve to cure any default under any of the Loan Documents, nor shall any amounts received by Lender hereunder be in full satisfaction of the Loan unless such amounts are sufficient to pay such Loan in full (including any accrued but unpaid interest thereon, Prepayment Premiums, Late Charges and advances) in accordance with the terms of the Loan Documents.

6. Lender as Creditor of Tenant. Upon execution of this Assignment, Lender, and not Borrower, shall be the creditor of any Tenant in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution or receivership proceedings affecting any such Tenant; provided, however, that Borrower shall be the party obligated to make timely filings of claims in such proceedings or to otherwise pursue creditor's rights therein. Notwithstanding the foregoing, Lender shall have the right, but not the obligation, to file such claims instead of Borrower and if Lender does file a claim, Borrower agrees that Lender (a) is entitled to all distributions on such claim to the exclusion of Borrower, and (b) has the exclusive right to vote such claim and otherwise to participate in the administration of the estate in connection with such claim. Lender shall have the option to apply any monies received by it as such creditor to the Indebtedness in such order and manner of application as Lender may elect. If a petition is filed under the Bankruptcy Code by or against Borrower, and Borrower, as landlord under any Lease, decides to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender at least ten (10) days' prior written notice of the date when Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender may, but shall not be obligated to, send Borrower within such ten-day period a written notice stating that (a) Lender demands that Borrower assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code, and (b) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender sends such notice, Borrower shall not reject the Lease provided Lender complies with subsection (b) of the preceding sentence.

56952.21; 3/19/2018

Loan No. 00-1102859  
Newcastle Lakeview Apartment Portfolio I

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7. Limitation of Lender's Liability. Lender shall not be obligated to perform or discharge any obligation under the Leases hereby assigned or by reason of this Assignment, and Borrower hereby agrees to indemnify, defend and hold Lender harmless against any and all liability, loss or damage which Lender might incur under the Leases, or by reason of this Assignment, and of and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on Lender's part to perform or discharge any of the terms of such Leases, including Lender's negligence or strict liability, except for claims and demands arising by reason of Lender's gross negligence or willful misconduct.

8. Reinstatement after Default. Lender, at its sole option, may reinstate the Loan upon Borrower having complied with all the terms, covenants and conditions of the Loan Documents, and/or fully curing all of the defaults under said documents. In such event, Lender, at its sole option, may reinstate Borrower's license to collect Rents and return possession of the Property to Borrower. Thereafter Borrower shall remain in possession of the Property unless and until another Event of Default occurs under any of the Loan Documents, at which time Lender may, at its sole option, again revoke Borrower's license to collect Rents and may again take possession of the Property under authority, and pursuant to the terms and provisions, of this Assignment.

9. Satisfaction of Security Instrument; Satisfaction of Assignment. This Assignment shall remain in full force and effect as long as the Loan remains unpaid in whole or in part. It is understood and agreed that a complete release or satisfaction of the Security Instrument shall operate as a complete release or satisfaction of all of Lender's rights and interest hereunder, and that satisfaction of the Security Instrument shall operate to satisfy this Assignment.

10. Captions. The captions set forth at the beginning of the various paragraphs of this Assignment are for convenience only, and shall not be used to interpret or construe the provisions of this Assignment.

11. Documents Incorporated. The terms and conditions of the Loan Documents are incorporated into this Assignment as if fully set forth in this Assignment.

12. Joint and Several Liability. Where more than one Borrower is named herein, the obligations and liabilities of said Borrower shall be joint and several.

13. Changes in Writing. No modification, amendment or waiver of, or consent to any departure by Borrower from, any provision of this Assignment will be effective unless made in a writing signed by the party to be charged, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

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14. Governing Law; Waiver of Jury Trial; Severability.
- a. THE PARTIES HERETO, TO THE FULL EXTENT PERMITTED BY LAW, EACH HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES HEREBY THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY TORT ACTION, AGAINST LENDER, ITS SUCCESSORS AND ASSIGNS, BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO OR IN CONNECTION WITH ANY OF THE LOAN DOCUMENTS, THE LOAN OR ANY COURSE OF CONDUCT, ACT, OMISSION, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, LENDER'S DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH LENDER) IN CONNECTION WITH THE LOAN OR THE LOAN DOCUMENTS.
- b. THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS ASSIGNMENT MAY BE BROUGHT IN A COURT OF RECORD IN THE STATE OR IN THE COURTS OF THE UNITED STATES OF AMERICA LOCATED IN SUCH STATE. BORROWER CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF EACH SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING, AND WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY OF SUCH COURTS AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- c. If any clauses or provisions herein contained operate, or would prospectively operate, to invalidate this Assignment, then such clauses or provisions only shall be held for naught, as though not herein contained, and the remainder of this Assignment shall remain operative and in full force and effect.

[SIGNATURE PAGE FOLLOWS]



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*[Signature Page to Assignment of Leases, Rents and Profits]*

IN WITNESS WHEREOF, Borrower has caused this Assignment of Leases, Rents and Profits to be executed as of the day and year first above written.

Borrower:

PHOENIX BOWL LLC,  
an Illinois limited liability company

By: \_\_\_\_\_

Jack Potts

Its: Senior Vice President

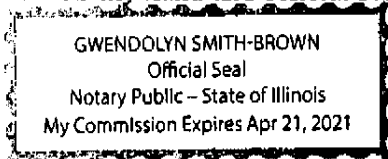
STATE OF ILLINOIS

)  
) ss.  
)

COUNTY OF COOK

On this 12 day of March, 2018, before me, the undersigned, a Notary Public in and for said state, personally appeared Jack Potts, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument as the Senior Vice President of Phoenix Bowl LLC, an Illinois limited liability company, the limited liability company that executed the within instrument, and acknowledged to me that such limited liability company executed the same.

WITNESS my hand and official seal.



Signature: Gwendolyn Smith-Brown  
Name: Gwendolyn Smith-Brown  
My Commission Expires: 4-21-21

**[BORROWER'S SIGNATURE CONTINUED ON FOLLOWING PAGE]**



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*[Signature Page to Assignment of Leases, Rents and Profits]*

IN WITNESS WHEREOF, Borrower has caused this Assignment of Leases, Rents and Profits to be executed as of the day and year first above written.

Borrower:

PINBALL LLC,  
an Illinois limited liability company

By: \_\_\_\_\_

Jack Potts

Its: Senior Vice President

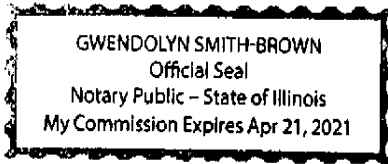
STATE OF ILLINOIS )

) ss.

COUNTY OF COOK )

On this 12 day of March, 2018, before me, the undersigned, a Notary Public in and for said state, personally appeared Jack Potts, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument as the Senior Vice President of Pinball LLC, an Illinois limited liability company, the limited liability company that executed the within instrument, and acknowledged to me that such limited liability company executed the same.

WITNESS my hand and official seal.



Signature: Gwendolyn Smith-Brown  
Name: Gwendolyn Smith-Brown  
My Commission Expires: 4-21-2021

**[BORROWER'S SIGNATURE CONTINUED ON FOLLOWING PAGE]**



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*[Signature Page to Assignment of Leases, Rents and Profits]*

IN WITNESS WHEREOF, Borrower has caused this Assignment of Leases, Rents and Profits to be executed as of the day and year first above written.

Borrower:

KEYHOLE LLC,  
an Illinois limited liability company

By: \_\_\_\_\_

Jack Potts

Its: Senior Vice President

STATE OF ILLINOIS

)  
) ss  
)

COUNTY OF COOK

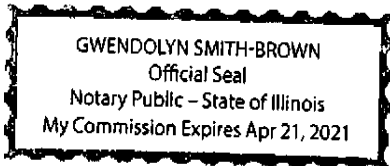
On this 12 day of March, 2018, before me, the undersigned, a Notary Public in and for said state, personally appeared Jack Potts, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument as the Senior Vice President of Keyhole LLC, an Illinois limited liability company, the limited liability company that executed the within instrument, and acknowledged to me that such limited liability company executed the same.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



56952.21; 3/12/2018

Loan No. 00-1102859  
Newcastle Lakeview Apartment Portfolio I

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## EXHIBIT A LEGAL DESCRIPTION

### Tract A:

THE EAST 15 FEET OF LOT 57 AND ALL OF LOTS 58, 59 AND 60 IN CULVER'S ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTH 20 RODS OF THE NORTH 60 RODS, ALSO THE SOUTH QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 510-524 West Wellington Avenue, Chicago, Illinois  
Permanent Tax Index No.: 14-28-108-022-0000

### Tract B:

THE SOUTH 16  $\frac{2}{3}$  FEET OF LOT 4 AND ALL OF LOT 5 IN CIRCUIT COURT PARTITION OF LOTS 6 AND 9 IN BLOCK 8 IN HUNDLEY'S SUBDIVISION OF LOTS 3 TO 21 AND 33 TO 37 INCLUSIVE, IN PINE GROVE IN SECTION 21, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 3610 North Pine Grove Avenue, Chicago, Illinois  
Permanent Tax Index No.: 14-21-109-014-0000

### Tract C:

LOT 6 IN BLOCK 2 IN EQUITABLE TRUST COMPANY'S SUBDIVISION OF PARTS OF SECTIONS 20 AND 21, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 725-747 West Irving Park Road, Chicago, Illinois  
Permanent Tax Index No.: 14-21-100-011-0000

### Tract D:

THE NORTH 50 FEET OF LOT 5 IN BLOCK 2 IN EQUITABLE TRUST COMPANY'S SUBDIVISION OF PARTS OF SECTIONS 20 AND 21, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 3937-3939 North Clarendon Avenue, Chicago, Illinois  
Permanent Tax Index No.: 14-21-100-002-0000 and 14-21-100-003-0000

56952.21; 3/19/2018

Loan No. 00-1102859  
Newcastle Lakeview Apartment Portfolio I

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Tract E:

LOTS 2, 3 AND 4 IN SNYDER'S SUBDIVISION OF LOT 15 IN SCHOOL TRUSTEES' SUBDIVISION OF FRACTIONAL SECTION 16, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 718 West Irving Park Road, Chicago, Illinois  
Permanent Tax Index No.: 14-16-305-017-0000

Property of Cook County Clerk's Office

56952.21; 3/19/2018

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