

UNOFFICIAL COPY

Doc#: 1815747020 Fee: \$66.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/06/2018 09:30 AM Pg: 1 of 10

THIS DOCUMENT WAS PREPARED BY,
AND AFTER RECORDING, RETURN TO:

Courtney E. Mayster
MUCH SHELIST
191 North Wacker Drive, Suite 1800
Chicago, Illinois 60606.1615

PERMANENT TAX INDEX NUMBERS:

14-17-207-006-0000
14-17-207-012-0000

PROPERTY ADDRESS:

4621 North Racine Avenue
Chicago, Illinois 60640

This space reserved for Recorder's use only.

THIRD MODIFICATION OF MORTGAGE AND LOAN DOCUMENTS

THIS THIRD MODIFICATION OF MORTGAGE AND LOAN DOCUMENTS (this "Agreement") is dated as of April 18, 2018 by and among CHICAGO TITLE LAND TRUST COMPANY AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 21, 1984 AND KNOWN AS TRUST NUMBER 1085873 ("Mortgagor" or "Grantor"), 4621 PROPERTY LLC, an Illinois limited liability company ("4621"), SACRED HEART HOME INCORPORATED, an Illinois corporation ("Sacred Heart"), and FORTY SIX TWENTY ONE CORPORATION INCORPORATED, an Illinois corporation ("Forty Six"); 4621, Sacred Heart and Forty Six are referred to individually and collectively herein as the "Borrower", and BRIDGEVIEW BANK GROUP, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan to the Mortgagor in the original principal amount of Seven Hundred Thousand and 00/100 Dollars (\$700,000.00) ("First Loan"), as evidenced by a Promissory Note dated September 18, 2009 in the original principal amount of the Loan made payable by the Mortgagor to the order of Lender (the "First Note"). The First Note is secured by, among other things; (i) that certain Mortgage dated as of September 18, 2009 executed by the Mortgagor in favor of Lender, recorded in the office of the Cook County, Illinois Recorder of Deeds ("Recorder's Office") on October 27, 2009 as Document No. 0930026127 encumbering the property commonly known as 4621 North Racine, Chicago, Illinois 60640 and further described on Exhibit A attached hereto and incorporated herein (the "Property") (the "First Mortgage"); (ii) that certain Assignment of Rents dated September 18, 2009 executed by the Mortgagor in favor of Lender, recorded in the Recorder's Office on October 27, 2009 as Document No. 0930026128 (the "First Assignment of Rents"); (iii) that certain Commercial Guaranty dated September 18, 2009 executed by an individual associated with Borrower ("Guarantor") in favor of Lender (the "First Guaranty"); (iv) that certain Business Loan Agreement dated as of September 18, 2009 by and between the Mortgagor and the Lender (the "First Loan Agreement"); (v) that certain Change in Terms Agreement dated September 18, 2014 executed by Guarantor in favor of Lender ("First Loan Change in Terms"); and (vi) all of those certain other loan

UNOFFICIAL COPY

documents from Borrower and/or Guarantor to Lender securing and guarantying the First Loan (the First Note, the First Mortgage, the First Assignment of Rents, the First Guaranty, the First Loan Agreement, the First Loan Change in Terms, and any other document evidencing, securing and guarantying the First Loan, in their original form, are individually and collectively referred to herein as the "First Loan Documents").

B. Lender has heretofore made a loan to Sacred Heart and Forty Six in the original principal amount of One Million Five Hundred Eight Thousand Eight Hundred and 00/100 Dollars (\$1,508,800.00) ("Second Loan"), as evidenced by a Promissory Note dated November 1, 2011, as amended, in the original principal amount of the Second Loan made payable by Sacred Heart and Forty Six to the order of Lender (the "Second Note"). The Second Note is secured by, among other things: (i) that certain Mortgage dated as of November 1, 2011 executed by the Mortgagor in favor of Lender, recorded in the Recorder's Office on November 21, 2011 as Document No. 1132547021 encumbering the Property (the "Second Mortgage"); (ii) that certain Assignment of Rents dated November 1, 2011 executed by the Mortgagor in favor of Lender, recorded in the Recorder's Office on November 21, 2011 as Document No. 1132547022 (the "Second Assignment of Rents"); (iii) that certain Commercial Guaranty dated as of November 1, 2011 executed by Guarantor in favor of Lender (the "Second Guaranty"); (iv) that certain Business Loan Agreement dated as of November 1, 2011 by and among Sacred Heart, Forty Six and the Lender (the "Second Loan Agreement"); (v) that certain Change in Terms Agreement dated as of September 3, 2012 executed by Sacred Heart and Forty Six in favor of Lender ("Second Loan Change in Terms"); (vi) that certain Modification of Mortgage dated as of November 6, 2013 executed by the Mortgagor in favor of Lender, recorded in the Recorder's Office on November 22, 2013 as Document No. 1332649077 ("Modification of Mortgage"); (vii) that certain Change in Terms Agreement dated September 18, 2014 executed by Sacred Heart and Forty Six in favor of Lender ("Second Loan Change in Terms II"); and (viii) all of those certain other loan documents from Borrower and/or Guarantor to Lender securing and guarantying the Second Loan (the Second Note, the Second Mortgage, the Second Assignment of Rents, the Second Guaranty, the Second Loan Agreement, the Second Loan Change in Terms, the Modification of Mortgage, the Second Loan Change in Terms II, and any other document evidencing, securing and guarantying the Second Loan, in their original form, are individually and collectively referred to herein as the "Second Loan Documents").

C. Lender has heretofore made a loan to the Mortgagor in the original principal amount of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) ("Third Loan"), as evidenced by a Promissory Note dated November 6, 2013, as amended, in the original principal amount of the Third Loan made payable by Sacred Heart and Forty Six to the order of Lender (the "Third Note"). The Third Note is secured by, among other things: (i) that certain Modification of Mortgage (described above); (ii) that certain Commercial Guaranty dated as of November 6, 2013 executed by Guarantor in favor of Lender (the "Third Guaranty"); (iii) that certain Business Loan Agreement dated as of November 6, 2013 by and among Sacred Heart, Forty Six and the Lender (the "Third Loan Agreement"); (iv) that certain Change in Terms Agreement dated September 18, 2014 executed by Sacred Heart and Forty Six in favor of Lender ("Third Loan Change in Terms"); and (v) all of those certain other loan documents from Borrower and/or Guarantor to Lender securing and guarantying the Third Loan (the Third Note, the Modification of Mortgage, the Third Guaranty, the Third Loan Agreement, the Third Loan Change in Terms, and any other document evidencing, securing and guarantying the Third Loan, in their original form, are individually and collectively referred to herein as the "Third Loan Documents").

D. The First Loan, Second Loan and Third Loan are individually and collectively referred to herein as the "Loan." The First Note, Second Note, Third Note and the First Replacement Note (as hereinafter defined) are individually and collectively referred to herein as the "Note." The First Mortgage, Second Mortgage and the Modification of Mortgage are individually and collectively referred

UNOFFICIAL COPY

to herein as the "Mortgage." The First Guaranty, Second Guaranty, Third Guaranty and First Reaffirmation (as hereinafter defined) are individually and collectively referred to herein as the "Guaranty." The First Loan Documents, the Second Loan Documents, the Third Loan Documents, the First Modification (as hereinafter defined), the First Reaffirmation (as hereinafter defined), and the First Replacement Note (as hereinafter defined) are individually and collectively referred to herein as the "Loan Documents."

E. The Loan was modified by that certain Modification of Mortgage and Loan Documents dated as of December 18, 2014 executed by and among Mortgagor, Borrower and Lender recorded in the Recorder's Office on January 9, 2015 as Document No. 1500946103 ("First Modification"), that certain Amended and Restated Promissory Note dated as of December 18, 2014 made payable by Sacred Heart and Forty Six to the order of Lender ("First Replacement Note"), and that certain Reaffirmation and Amendment of Guaranty dated as of December 18, 2014 executed by Guarantor ("First Reaffirmation").

F. The Loan was modified by that certain Second Modification of Mortgage and Loan Documents dated as of December 18, 2017 executed by and among Mortgagor, Borrower and Lender recorded in the Recorder's Office on February 2, 2018 as Document No. 1803318055 ("Second Modification"), that certain Second Amended and Restated Promissory Note dated as of December 18, 2017 made payable by Sacred Heart and Forty Six to the order of Lender ("Second Replacement Note"), and that certain Second Reaffirmation and Amendment of Guaranty dated as of December 18, 2017 executed by Guarantor ("Second Reaffirmation").

G. The Borrower, Mortgagor and Guarantor have requested that Lender extend and amend the Loan in accordance with the terms and set forth below.

AGREEMENTS

NOW, THEREFORE, in consideration of: (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement); (ii) the agreements by Lender to modify the Loan Documents, as provided herein; (iii) agreement to pay Lender's reasonable expenses, including all of Lender's reasonable attorneys' fees and costs in connection with this Agreement; (iv) the covenants and agreements contained herein; (v) the Guarantor's separate reaffirmation of the Guaranty with respect to the Loan as extended and amended herein; and (vi) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Incorporation of Recitals**. The aforesaid recitals are hereby incorporated into this Agreement by reference as if fully set forth in this Paragraph 1. Wherever the terms and conditions of this Agreement conflict with the terms and conditions of the Loan Documents, the terms and conditions of this Agreement shall control. In all other respects the parties do hereby ratify and declare to be in full force and effect the terms and conditions of the Mortgage, Note and Loan Documents.

2. **Amendment of Note**. The Note shall be amended to modify certain terms under the Note as set forth herein. The Note shall be amended and restated by that certain Third Amended and Restated Promissory Note of even date herewith executed by Borrower in the form attached hereto as **Exhibit "B"** (the "**Third Replacement Note**"). As of the date hereof, the Third Replacement Note shall be substituted for and replace in its entirety the existing Note as evidence of the amounts due and owing to Lender.

UNOFFICIAL COPY

3. **Loan Amount.** As of April 18, 2018, the principal balance of the Loan is **THREE MILLION FIVE THOUSAND FIVE HUNDRED FIFTY SIX AND 17/100 DOLLARS** (\$3,005,556.17).

4. **Maturity Date.** The Maturity Date of the Loan shall be amended and extended to **April 18, 2021**.

5. **Reaffirmation of Representations and Warranties.** Borrower and Mortgagor hereby reaffirm as true and correct in all respects, as of the date hereof, any and all representations and warranties contained in the Mortgage and Loan Documents.

6. **Reaffirmation of Covenants.** Borrower and Mortgagor do hereby reaffirm and agree to perform all of the terms, covenants, conditions and obligations applicable to such parties as set forth in the Mortgage and Loan Documents as herein modified.

7. **Release by Borrower.** Each Borrower hereby releases and forever discharges Lender and its past and present officers, directors, employees, agents, attorneys, predecessors-in-interest, parents, subsidiaries, affiliates and assigns of and from any and all actions, claims, and causes of action, suits, debts, liabilities, dues, accounts, demands, obligations, costs, expenses, losses, damage and indemnities of every kind or nature whatsoever, whether known or unknown, suspected or unsuspected, contingent or fixed, in law or in equity, which Borrower has, may have had, own or hold, or at any time heretofore had, may have had, owned or held, whether based on contract, tort, statute, or other legal or equitable theory of recovery, relating to, or arising out of the Loan, the Note, the Third Replacement Note, the Loan Documents, this Modification or the Property.

8. **Waiver of Defenses.** Each Borrower acknowledges that Borrower has no defenses, offsets, or counterclaims under the Loan, the Note, the Third Replacement Note or the Loan Documents. To the extent that any such defenses, offsets, or counterclaims exist as of the date hereof, they are hereby waived and released in consideration of Borrower's agreement to amend the Loan.

9. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay all reasonable out-of-pocket third-party costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and reasonable attorneys' fees and expenses.

10. **Title Policy.** As a condition precedent to the agreements contained herein, Lender or Borrower shall, at Borrower's sole cost and expense, cause Greater Illinois Title Company to issue a tract search or an endorsement (at Lender's option) to loan policy no. 4407889-dd2 (the "**Title Policy**") as of the date this Agreement is recorded, reflecting the recording of this Modification, and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

11. **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to **two times the outstanding principal amount of the Loan as set forth above**; provided, however, in no event shall the Lender be obligated to advance funds in excess of the face amount of the Third Replacement Note.

12. **Trustee's Exculpation.** This Agreement is executed by Chicago Title Land Trust Company (the "**Trustee**"), not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants that it possesses full

UNOFFICIAL COPY

power and authority to execute this instrument). It is expressly understood and agreed that all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by the Trustee solely in its capacity as trustee and not personally. It is further understood and agreed that the Trustee merely holds title to the Property and has no agents, employees or control over the management of the Property and no knowledge or of other factual matters except as represented to the Trustee by the Beneficiary. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this Mortgage, all such liability being expressly waived by the Lender and by every person now or hereafter claiming any right or security hereunder; and the owner of any of the indebtedness or cause of action for breach of any warranty, indemnity, representation, covenant, undertaking or agreement accruing hereunder shall look solely to the Trust estate or the Property conveyed for the payment thereof, by the enforcement of the Lien hereby created, in the manner herein and in the Third Replacement Note provided or by action to enforce the personal liability of any guarantor.

13. Miscellaneous

- a. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- b. This Agreement shall not be construed more strictly against Lender than against Borrower or Mortgagor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Mortgagor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Mortgagor and Lender each acknowledge and waive any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.
- c. Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with the Borrower or Mortgagor, nor shall privity of contract be presumed to have been established with any third party.
- d. Borrower, Mortgagor and Lender each acknowledge that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Mortgagor, and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

UNOFFICIAL COPY

- e. This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.
- f. Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Third Replacement Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.
- g. This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.
- h. Time is of the essence of each of Borrower's and Mortgagor's obligations under this Agreement.


[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK –
SIGNATURE PAGES FOLLOW]

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

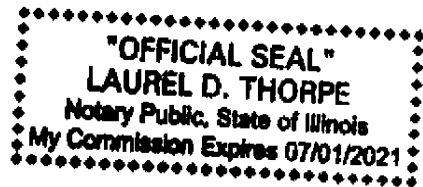
I, Laurel Thorpe, a Notary Public in and for said County in the State aforesaid. DO HEREBY CERTIFY that Rachel Huising as Assistant Vice President of **CHICAGO TITLE LAND TRUST COMPANY**, a Nebraska corporation, known to me to be the same person whose name is subscribed to the foregoing instrument as such member, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25th day of May, 2018.



Notary Public

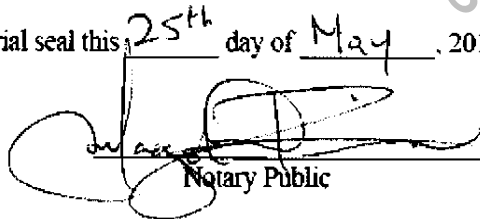
My Commission Expires:



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid. DO HEREBY CERTIFY that Kimberly Jensen, the Vice President of **BRIDGEVIEW BANK GROUP**, its successors and assigns, who 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 as such Vice President, he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said banking corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25th day of May, 2018.



Notary Public

My Commission Expires:



UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have executed this Third Modification of Mortgage and Loan Documents dated as of the day and year first above written.

MORTGAGOR:

**CHICAGO TITLE LAND TRUST COMPANY
AS TRUSTEE UNDER TRUST AGREEMENT
DATED AUGUST 21, 1984 AND KNOWN AS
TRUST NO. 1085873**

By: [Signature]
Name: WANG, JUN SING
Title: ASSISTANT VICE PRESIDENT

LENDER:

BRIDGEVIEW BANK GROUP

By: [Signature]
Name: WUMBERY, JUNE
Title: VIC. PRESIDENT

BORROWER:

**SACRED HEART HOME INCORPORATED,
an Illinois corporation**

By: [Signature]
Name: Peter J. O'Brien
Title: PRESIDENT

**FORTY SIX TWENTY ONE CORPORATION,
INCORPORATED, an Illinois corporation**

By: [Signature]
Name: Peter J. O'Brien
Title: _____

**4621 PROPERTY LLC, an Illinois limited
liability company**

By: [Signature]
Name: Peter J. O'Brien
Title: PRESIDENT



This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS:
COUNTY OF Cook)

I, Jennifer Tremblay, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that PETER J. O'BRIEN, in his respective capacities as the Manager of 4621 Property LLC, an Illinois limited liability company, as the President of Sacred Heart Home Incorporated, an Illinois corporation, and as the President of Forty Six Twenty One Corporation Incorporated, and known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager and President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company and corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29 day of May, 2018.

Jennifer Tremblay
Notary Public

My Commission Expires:

8/26/2021



UNOFFICIAL COPY

EXHIBIT A LEGAL DESCRIPTION OF THE PROPERTY

LOTS 245 AND 246 ALSO THE NORTH 5 FEET OF LOT 7 AND THE WEST 5 FEET OF THE SOUTH 55 FEET OF SAID LOT 7 IN THE SUBDIVISION OF LOTS 253 THROUGH 262, BOTH INCLUSIVE, ALL IN WILLIAM DEERING'S SURRENDEL SUBDIVISION IN THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS: 14-17-207-006-0000
14-17-207-012-0000

COMMON ADDRESS: 4621 NORTH RACINE AVENUE
CHICAGO, ILLINOIS 60640

Property of Cook County Clerk's Office