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Illinois
Loan No. 342509
RECORDING
REQUESTED BY



1819034032

Doc# 1819034032 Fee \$62.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 07/09/2018 11:13 AM PG: 1 OF 13

WHEN RECORDED
MAIL TO

The Northwestern Mutual
Life Ins. Co.
720 East Wisconsin Avenue
Rm N16WC
Milwaukee, WI 53202
Attn: Leah M. Hillmer

SPACE ABOVE THIS LINE FOR RECORDER'S USE

This instrument was prepared by James L. McFarland, Attorney, for The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Ave., Milwaukee, WI, 53202.

ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

(With License Back)

THIS Absolute Assignment of Leases and Rents (this "Assignment") is made as of the 29th day of June, 2018, by and between ALBION AT EVANSTON, LLC, a Delaware limited liability company, whose mailing address is c/o Albion Residential LLC, 188 W. Randolph, Suite 202, Chicago, Illinois, 60601, (herein called "Borrower") and THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation, whose mailing address is c/o Real Estate Department, 720 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202, (herein called "Lender").

WITNESSETH

FOR AND IN CONSIDERATION of the indebtedness hereinafter described, Borrower has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey, unto Lender, its successors, and assigns forever, all and singular the property hereinafter described (collectively, the "Security"), to wit:

(a) All rents, issues, and profits arising from or related to the land situated in the City of Evanston, County of Cook, State of Illinois, described in Exhibit "A"

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attached hereto and fully incorporated herein by reference for all purposes and all improvements and any other property, whether real, personal, or mixed, located thereon (other than any property owned by tenants under the Leases) (which land, improvements, and other property are hereinafter collectively called the "Property");

(b) All of Borrower's rights, titles, interests and privileges, as lessor, in the leases now existing or hereafter made affecting the Property, whether or not made by Borrower and as the same may have been, or may from time to time hereafter be, modified, extended, and renewed (hereinafter collectively called the "Leases" and individually called a "Lease");

(c) All tenant security deposits and other amounts due and becoming due under the Leases;

(d) All guarantees of the Leases, including guarantees of tenant performance;

(e) All insurance proceeds, including rental loss coverage and business interruption coverage with respect to the Leases; and

(f) All judgments and settlements of claims in favor of Borrower (including condemnation proceeds, if any) and all rights, claims, and causes of action under any court proceeding, including without limitation any bankruptcy, reorganization, or insolvency proceeding, or otherwise arising from the Leases.

TO HAVE AND TO HOLD the Security unto Lender, its successors, and assigns forever, and Borrower does hereby bind itself, its heirs, legal representatives, successors, and assigns to warrant and forever defend the Security unto Lender, its successors, and assigns forever against the claim or claims of all persons whomsoever claiming the same or any part thereof.

ARTICLE I DEFINITIONS

1.01 **Terms Defined Above.** As used in this Assignment, the terms "Borrower", "Leases", "Lender", "Property", and "Security" shall have the respective meanings indicated above.

1.02 **Certain Definitions.** The following terms shall have the meanings assigned to them below whenever they are used in this Assignment, unless the context clearly

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otherwise requires. Except where the context otherwise requires, words in the singular form shall include the plural and vice versa.

"Event of Default" shall mean any Event of Default as defined in the Lien Instrument.

"Lien Instrument" shall mean that certain Mortgage and Security Agreement of even date herewith executed by Borrower and granting a lien on the Property to Lender, as such instrument may be amended and restated from time to time.

"Loan Commitment" shall mean that certain Loan Application dated April 12, 2018 from Borrower to Lender together with that certain acceptance letter issued by Lender dated June 28, 2018.

"Loan Documents" shall mean the Note, the Lien Instrument, this Assignment, the Loan Commitment, that certain Certification of Borrower of even date herewith, that certain Funding Agreement of even date herewith, that certain Disbursement Agreement of even date herewith, that certain Guarantee of even date herewith (the "Guarantee"), that certain Guarantee of Recourse Obligations of even date herewith (the "GRO"), that certain Construction Cost Agreement of even date herewith, that certain Net Worth Maintenance Agreement of even date herewith, that certain Limited Liability Company Supplement dated contemporaneously herewith, any other supplements and authorizations required by Lender, and all other instruments and documents (as the same may be amended from time to time) executed by Borrower and delivered to Lender in connection with, or as security for, the indebtedness evidenced by the Note, except any separate environmental indemnity agreement.

"Note" shall mean that certain Promissory Note of even date herewith in the original principal amount of \$51,750,000.00 executed by Borrower and payable to the order of Lender, as such instrument may be amended, renewed, and restated from time to time.

"Obligations" shall mean the following:

- (a) The indebtedness evidenced by the Note and all interest thereon;
- (b) The performance of all covenants and agreements of Borrower contained in the Loan Documents;

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(c) All funds hereafter advanced by Lender to or for the benefit of Borrower as contemplated by any covenant or provision contained in any Loan Document and all interest thereon;

(d) All renewals, extensions, rearrangements, and modifications of any of the Obligations described hereinabove; and

(e) Any and all attorneys' fees and expenses of collection payable under the terms of any Loan Document.

ARTICLE II ASSIGNMENT

2.01 **Absolute Assignment.** This Assignment is, and is intended to be, an absolute and present assignment of the Security from Borrower to Lender with a concurrent license back to the Borrower (which license is subject to revocation only upon the occurrence of an Event of Default as herein provided) and is not intended as merely the granting of a security interest relating to the Obligations.

2.02 **License.** Borrower is hereby granted the license to manage and control the Security and to collect at the time of, but not prior to, the date provided for the payment thereof, all rents, issues, and profits from the Property and to retain, use, and enjoy the same. The license created and granted hereby shall be revocable upon the terms and conditions contained herein. Notwithstanding the foregoing, any fee exceeding \$250,000.00 payable with respect to the termination or contraction of a Lease shall be payable directly to, and held by, Lender and shall be released by Lender in amounts subject to Lender's approval upon receipt by Lender of evidence suitable to Lender to reimburse Borrower for leasing commissions, tenant improvements, and other reasonable costs of re-leasing the space vacated in connection with such lease termination or lease contraction. At Lender's sole option, any amounts remaining eighteen (18) months after payment of such fee to Lender shall be applied to the outstanding balance under the Note, without a prepayment fee, or be released to Borrower. Any amounts held by Lender at any time there shall occur an Event of Default under the Loan Documents shall be applied to the outstanding amounts due under the Note with the prepayment fee payable pursuant to the prepayment provisions of the Note.

2.03 **Revocation of License.** Immediately upon the occurrence of an Event of Default and at any time thereafter, Lender may, at its option and without regard to the adequacy of the security for the Obligations, either by an authorized representative or agent, with or without bringing or instituting any judicial or other action or proceeding, or by a receiver appointed by a court, immediately revoke the license granted in Section 2.02, as evidenced by a written notice to said effect given to Borrower, and further, at

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Lender's option (without any obligation to do so), take possession of the Property and the Security and have, hold, manage, lease, and operate the Property and the Security on such terms and for such period of time as Lender may deem proper, and, in addition, either with or without taking possession of the Property, demand, sue for, or otherwise collect and receive all rents, issues, and profits from the Property, including those past due and unpaid, with full power to make, from time to time, all alterations, renovations, repairs, or replacements thereto or thereof as may seem proper to the Lender in its sole discretion, and to apply (in such order and priority as Lender shall determine in its sole discretion) such rents, issues, and profits to the payment of:

(a) all expenses of (i) managing the Property, including without implied limitation, the salaries, fees, and wages of a managing agent and such other employees as Lender may in its sole discretion deem necessary or desirable, (ii) operating and maintaining the Property, including without implied limitation, all taxes, charges, claims, assessments, water rents, sewer rents, and any other liens and premiums for all insurance which Lender may in its sole discretion deem necessary or desirable, (iii) the cost of any and all alterations, renovations, repairs, or replacements of or to the Property, and (iv) any and all expenses incident to taking and retaining possession of the Property and the Security; and

(b) the Obligations.

The exercise by Lender of the rights granted it in this Section 2.03, and the collection and receipt of rents, issues, and profits and the application thereof as herein provided, shall not be considered a waiver of any Event of Default.

2.04 Trust Funds. All monies or funds covered by this Assignment paid to, or for the benefit of, Borrower after any default are hereby declared, and shall be deemed to be, trust funds in the hands of Borrower for the sole benefit of Lender, until all defaults have been cured or waived or the Obligations have been paid and performed in full. Borrower or any officer, director, representative, or agent thereof receiving such trust funds or having control or direction of same, is hereby made and shall be construed to be a trustee of such trust funds so received or under its control and direction, and such person shall be under a strict obligation and duty should such persons receive or constructively receive trust funds to (1) remit any and all such trust funds to Lender within twenty-four (24) hours of receipt, upon demand therefor by Lender or (2) to apply such trust funds only to Obligations then due or the operating expenses of the Property. Notwithstanding the foregoing, no officer, director, representative, or agent of Borrower shall have any liability hereunder until a default becomes an Event of Default and only to the extent that said officer, director, representative, or agent of Borrower used said trust funds for his or her own personal benefit or for the benefit of a third party.

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ARTICLE III COVENANTS, REPRESENTATIONS AND WARRANTIES

3.01 **Liability**. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Property after an Event of Default or from any other act or omission of Lender in managing the Property or the Security after an Event of Default, except for acts constituting gross negligence or willful misconduct. Lender shall not be obligated to perform or discharge, nor does Lender hereby undertake to perform or discharge, any obligation, duty, or liability under any Lease, and Borrower shall and does hereby indemnify Lender for, and save and hold Lender harmless from, any and all liability, loss, or damages, except so much thereof as shall result from the gross negligence or willful misconduct of Lender, which may or might be incurred under any Lease or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease, including without implied limitation, any claims by any tenants of credit for rents for any period paid to and received by Borrower but not delivered to Lender. Should Lender incur any such liability under any Lease in defense of any such claim or demand, the amount thereof, including without implied limitation all costs, expenses, and attorneys' fees, shall be added to the principal of the Note and Borrower shall reimburse Lender therefor immediately upon demand. This Assignment shall not operate to place responsibility upon Lender for the control, care, upkeep, management, operation, or repair of the Property and the Security or for the carrying out of any of the terms and conditions of any Lease; nor shall this Assignment operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other party, for any dangerous or defective condition of the Property, or for any negligence in the control, care, upkeep, operation, management, or repair of the Property resulting in loss or injury or death to any tenant, licensee, employee, stranger, or other person whatsoever.

3.02 **Termination**. Upon payment and performance of the Obligations in full, this Assignment shall become null and void and of no further legal force or effect, but the affidavit, certificate, letter, or statement of any officer, agent, authorized representative, or attorney of Lender showing any part of the Obligations remaining unpaid or unperformed shall be and constitute conclusive evidence of the validity, effectiveness, and continuing force of this Assignment upon which any person may, and is hereby authorized to, rely. Borrower hereby authorizes and directs all tenants under the Leases, all guarantors of Leases, all insurers providing rental loss or business interruption insurance with respect to the Property, all governmental authorities, and all other occupants of the Property, upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and that an Event of Default exists, to pay over to Lender all rents and other amounts due and to become due under the Leases and under

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guaranties of the Leases and all other issues and profits from the Property and to continue so to do until otherwise notified in writing by Lender. This right may be exercised without Lender taking actual or constructive possession of the Property or any part thereof.

3.03 **Security**. Lender may take or release any security for the payment or performance of the Obligations, may release any party primarily or secondarily liable therefor, and may apply any security held by it to the satisfaction of all or any portion of the Obligations, without prejudice to any of its rights under this Assignment, the other Loan Documents or otherwise available at law or in equity.

3.04 **Covenants**. Borrower covenants with Lender (a) to observe and perform all the obligations imposed upon the lessor under all Leases and not to do or permit to be done anything to impair the same without Lender's prior written consent, (b) not to collect any of the rent or other amounts due under any Lease or other issues or profits from the Property in any manner in advance of the time when the same shall become due (save and except only for collecting one (1) month's rent in advance plus the security deposit, if any, at the time of execution of a Lease), (c) not to execute any other assignment of rents, issues, or profits arising or accruing from the Leases or from the Property, (d) not to enter into any lease agreement affecting the Property, except those leases entered into in the ordinary course of business and utilizing Borrower's standard form lease previously approved by Lender, with no substantial modifications thereto, without the prior written consent of Lender, (e) to execute and deliver, at the request of Lender, all such further assurances and acknowledgments of the assignment contained herein and the other provisions hereof, with respect to specific Leases or otherwise, as Lender shall from time to time reasonably require, and (f) not to cancel, surrender, or terminate any Lease, exercise any option which might lead to such termination, or consent to any change, modification, or alteration thereof, to the release of any party liable thereunder, or to the assignment of the lessee's interest therein, without the prior written consent of Lender, and any of said acts, if done without the prior written consent of Lender, shall be null and void. Notwithstanding clause (f) of the preceding sentence, and provided there is no Event of Default, Borrower may take the actions described in clause (f) without Lender's prior written consent if and only if such action is consistent with the usual and customary operation of the Property.

3.05 **Authority to Assign**. Borrower represents and warrants that (a) Borrower has full right and authority to execute this Assignment and has not entered into any Leases, (b) there are no Leases in effect, and (c) Borrower has not executed any other instrument which might prevent Lender from operating under any of the terms and conditions of this Assignment, including any other assignment of the Leases or the rents, issues, and profits from the Property.

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3.06 **Cross-Default.** Violation or default under any of the covenants, representations, warranties, and provisions contained in this Assignment by Borrower shall be deemed a default hereunder as well as under the terms of the other Loan Documents, and any default thereunder shall likewise be a default under this Assignment. Any default by Borrower under any of the terms of any Lease shall be deemed a default hereunder and under the terms of the other Loan Documents (and subject to notice and cure as provided therein or herein), and any expenditures made by Lender in curing such default on Borrower's behalf, with interest thereon at the Default Rate (as defined in the Note), shall become part of the Obligations.

3.07 **No Mortgagee in Possession.** The acceptance by Lender of this Assignment, with all of the rights, powers, privileges, and authority created hereby, shall not, prior to entry upon and taking possession of the Property by Lender, be deemed or construed to constitute Lender a "mortgagee in possession", or hereafter or at any time or in any event obligate Lender to appear in or defend any action or proceeding relating to any Lease, the Property, or the Security, to take any action hereunder, to expend any money, incur any expense, perform or discharge any obligation, duty, or liability under any Lease, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Borrower by any tenant and not actually delivered to Lender. Lender shall not be liable in any way for any injury or damage to any person or property sustained in or about the Property.

3.08 **Representation and Warranty.** Borrower represents and warrants that no Lease grants the tenant thereunder or any other party (i) the right or option to acquire the Property or any portion of the Property; or (ii) any rights with respect to any other property owned by Borrower.

ARTICLE IV GENERAL

4.01 **Remedies.** The rights and remedies provided Lender in this Assignment and the other Loan Documents are cumulative. Nothing contained in this Assignment, and no act done or omitted by Lender pursuant hereto, including without implied limitation the collection of any rents, shall be deemed to be a waiver by Lender of any of its rights and remedies under the other Loan Documents or applicable law or a waiver of any default under the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies provided Lender by the other Loan Documents. The right of Lender to collect the principal sum and interest due on the Note and to enforce the other Loan Documents may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

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4.02 **Notices**. Any notices, demands, requests, and consents permitted or required hereunder or under any other Loan Document shall be in writing, may be delivered personally, sent by certified mail with postage prepaid, or by reputable courier service with charges prepaid. Any notice or demand sent to Borrower by certified mail or reputable courier service shall be addressed to Borrower at 188 W. Randolph, Suite 202, Chicago, Illinois, 60601, Attention: Jason Koehn, or such other address in the United States of America as Borrower shall designate in a notice to Lender given in the manner described herein. Any notice sent to Lender by certified mail or reputable courier service shall be addressed to The Northwestern Mutual Life Insurance Company to the attention of the Real Estate Investment Department at 720 East Wisconsin Avenue, Milwaukee, WI, 53202, or at such other addresses as Lender shall designate in a notice given in the manner described herein. Any notice given to Lender shall refer to the Loan No. set forth above. Any notice or demand hereunder shall be deemed given when received. Any notice or demand which is rejected, the acceptance of delivery of which is refused, or which is incapable of being delivered during normal business hours at the address specified herein or such other address designated pursuant hereto shall be deemed received as of the date of attempted delivery.

4.03 **Captions**. The titles and headings of the various Articles and Sections hereof are intended solely for reference and are not intended to modify, explain, or affect the meaning of the provisions of this Assignment.

4.04 **Severability**. If any of the provisions of this Assignment or the application thereof to any persons or circumstances shall to any extent be invalid or unenforceable, the remainder of this Assignment, and the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

4.05 **Attorneys' Fees**. In the event of any controversy, claim, dispute, or litigation between the parties hereto to enforce any provision of this Assignment or any right of Lender hereunder, Borrower agrees to pay to Lender all costs and expenses, including reasonable attorneys' fees incurred therein by Lender, whether in preparation for or during any trial, as a result of an appeal from a judgment entered in such litigation or otherwise.

4.06 **Amendments**. This Assignment may not be modified, amended, or otherwise changed in any manner unless done so by a writing executed by the parties hereto.

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4.07 **Benefits**. This Assignment and all the covenants, terms, and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

4.08 **Assignment**. Borrower shall have no right to assign or transfer the revocable license granted herein. Any such assignment or transfer shall constitute a default.

4.09 **Time of Essence**. Time is of the essence of this Assignment.

4.10 **Governing Law**. The laws of the State of Illinois shall govern and control the interpretation of this Assignment and the rights, obligations, duties, and liabilities of the parties hereto.

4.11 **Limitation of Liability**. Notwithstanding any provision contained in this Assignment, the personal liability of Borrower and all other persons and entities other than the parties to the Guarantee and the GRO shall be limited as provided in the Note.

*(Remainder of page intentionally left blank.
Signature of Borrower on following page.)*

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IN WITNESS WHEREOF, this Assignment has been entered into as of the day and year first-above written.

BORROWER:

ALBION AT EVANSTON, LLC, a Delaware limited liability company

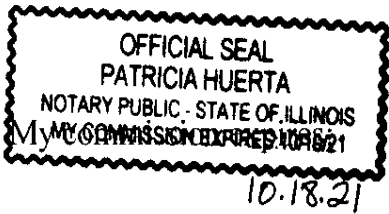
By: 

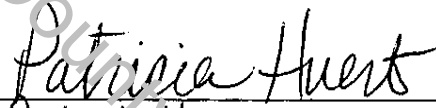
Name: Jason Koehn

Its: Authorized Signatory

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this July 3, 2018, by Jason Koehn, the Authorized Signatory of ALBION AT EVANSTON, LLC, a Delaware limited liability company.




Patricia Huerta, Notary Public

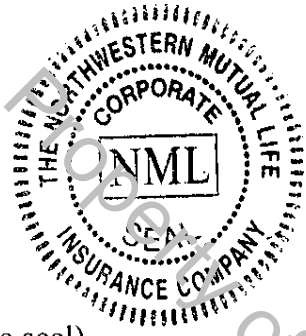
*(Remainder of page intentionally left blank.
Signature of Lender on following page.)*

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LENDER: THE NORTHWESTERN MUTUAL LIFE
INSURANCE COMPANY, a Wisconsin
corporation



By: Northwestern Mutual Investment
Management Company, LLC, a
Delaware limited liability company, its
wholly-owned affiliate



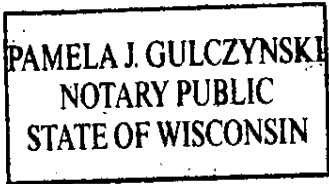
(corporate seal)

By: Christina M. Misiti-Eskritt
Name: Christina M. Misiti-Eskritt
Title: Managing Director

Attest: Thomas R. Spragg
Name: Thomas R. Spragg
Title: Assistant Secretary

STATE OF)
)ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 29th, 2018, by Christina M. Misiti-Eskritt and Thomas R. Spragg, the Managing Director and Assistant Secretary, respectively, of Northwestern Mutual Investment Management Company, LLC, a Delaware limited liability company, the wholly-owned affiliate of THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation.



Pamela J. Gulczynski
Pamela J. Gulczynski, Notary Public

My commission expires:
October 30, 2018

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EXHIBIT "A" Legal Description

Parcel 1:

Lot 3 in O. Huse's and others Resubdivision of Block 52 in Original Village (now City) of Evanston in Section 18, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois

Parcel 2:

Lot 4 in O. Huse and other Subdivision of Block 52 in Evanston except from said Lot that part thereof conveyed to the Chicago, Milwaukee and St. Paul Railway company by Warranty Deed dated November 12, 1908 and recorded November 16, 1908 as Document Number 4289805, in Section 18, Township 41 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

Parcel 3:

That part of Lots 5 and 6 in O. Huse and others Subdivision of Block 52 in Original Village of Evanston in the Southwest 1/4 of Section 18, Township 41 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois, which lies East of a line drawn from a point in the North line of said Lot 5, 18 feet East of the Northwest corner thereof to a point in the South line of said Lot 6, 37 feet East of the Southwest corner thereof and North of a line drawn from a point on the East line of said Lot 6, 0.18 of a foot South of the North East corner thereof to a point on the West line of said Lot 6, 0.58 of a foot South of the Northwest corner thereof

Parcel 4:

That part of the North 40 feet of the South 178 feet of Block 52 in Evanston lying Easterly of the Easterly line of premises conveyed to the Chicago, Evanston and Lake Superior Railway Company (now Chicago, Milwaukee and St. Paul Railway Company) by deed recorded April 27, 1886 as Document Number 711139 in Book 1753 page 383, in the South West 1/4 of Section 18, Township 41 North, Range 14, East of the Third Principal Meridian (except the East 31 Rods) in Cook County, Illinois

Parcel 5:

That part of Lot 6, in O. Huse and others Subdivision of Block 52 in the Original Village of Evanston, which lies East of a line drawn from a point in the North line of Lot 5 adjoining to the North, and 18 feet East of the North West corner of said Lot 5, to a point in the South line of Lot 6, 37 feet East of the Southwest corner (except that part of Lot 6 lying North of a line drawn from a point in the East line of said Lot 6, .18 feet South of the Northeast corner thereof to a point on the West line of said Lot 6, .58 feet South of the North West corner thereof) in Cook County, Illinois

Parcel 6:

Lot 1 in the Plat of Consolidation recorded September 19, 1988 as Document Number 88426763 of Lots 8, 9, and 10 (except the Westerly 40.0 feet thereof) in Block 52 in Evanston, in Section 18, Township 41 North, Range 14 East of the Third Principal Meridian in the City of Evanston, Cook County, Illinois

Common address: 1450 Sherman Avenue, 1500 Sherman Avenue and 1508 Sherman Avenue, Evanston, Illinois

Property Index Numbers: 11-18-317-010-0000; 11-18-317-011-0000; 11-18-317-012-0000; 11-18-317-013-0000; 11-18-317-014-0000; 11-18-317-021-0000; 11-18-317-022-0000 and 11-18-317-023-0000