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Doc# 2218917001 Fee \$67.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 07/08/2022 09:16 AM PG: 1 OF 9

Prepared by and after recording mail to:

Scott & Kraus, LLC  
150 South Wacker Drive  
Suite 2900  
Chicago, IL. 60605

CHI2203022LD  
(1 of 6)

Judgment of Foreclosure by Consent

Property of Cook County Clerk's Office

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## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT - CHANCERY DIVISION

ARBORETUM HOLDINGS LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2020 CH 05671
	)	
ABT OWNER I, L.P., COREY DUNNE, P.C.	)	
d/b/a D + K ARCHITECTS, LAUB	)	
CONSTRUCTION, INC., TOWER	)	
COMMERCIAL CONSTRUCTION, LLC,	)	The Arboretum of South Barrington
UNKNOWN OWNERS and NON-RECORD	)	100 W. Higgins Road
CLAIMANTS,	)	South Barrington, IL 60010
	)	
Defendants:	)	
	)	

### JUDGMENT OF FORECLOSURE BY CONSENT

THIS CAUSE HAVING BEEN HEARD by the Court upon the motion of Plaintiff, ARBORETUM HOLDINGS LLC, for entry of this Judgment of Foreclosure by Consent and upon the Stipulation for Entry of Judgment of Foreclosure By Consent (the "Stipulation"), due notice having been given and the Court being fully advised in the premises, the Court finds that:

1. MUFG Union Bank, N.A. ("MUFG"), filed a Verified Complaint to Foreclose Mortgage and for Other Relief on September 2, 2020 (the "Verified Complaint"). The Verified Complaint is comprised of two (2) counts. Count I is an action to foreclose a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated April 21, 2015 and recorded with the Office of the Cook County Recorder of Deeds on April 22, 2015 as Document No. 1511219128 (the "Mortgage") against the real property commonly known as 100 West Higgins Road, South Barrington, Illinois 60010 and legally described at Schedule A of the Mortgage and Schedule A hereto (the "Real Property"). Count II is an action to foreclose the Mortgage against Personal Property (as that term is defined in the Verified Complaint). Personal

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Property and Real Property are referred to collectively herein as "Property".

2. On or about January 3, 2022, MUFG assigned its interests in the loan documents at issue in this proceeding to ARBORETUM HOLDINGS LLC.

3. On or about February 2, 2022, ARBORETUM HOLDINGS LLC substituted into this proceeding as party-plaintiff, pursuant to 735 ILCS 5/2-408 and the pleadings and filings were deemed amended to so reflect Arboretum Holdings LLC as party-plaintiff.

4. All of the Defendants in this cause (collectively, the "Defendants") have been duly and properly brought before this Court, either through service of Summons and Complaint or Publication, all in the manner provided by law, or have executed the Stipulation for Consent Foreclosure, and this Court now has personal jurisdiction over all the parties to this cause and the subject matter hereof.

5. ABT Owner 1, L.P. has appeared through counsel and has executed the Stipulation for Consent Foreclosure.

6. Defendants were either served with process, acknowledged service and or have appeared herein.

7. ARBORETUM HOLDINGS LLC and ABT Owner 1, L.P. have executed the Stipulation agreeing to the entry by this Court of this Judgment of Foreclosure by Consent, pursuant to Section 15-1402 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1402, satisfying the indebtedness evidenced by the Note dated April 21, 2015 in the original principal amount of \$67,200,000.00 and any accumulated interest therefor (collectively, the "Note"), which is secured by, *inter alia*, the Mortgage, and is at issue in Counts I and II of the Verified Complaint, and which is attached as an exhibit to the Verified Complaint, by vesting absolute title to the Property in ARBORETUM HOLDINGS LLC, free and clear of all rights, title,

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interests, claims or liens, if any, of ABT Owner 1, L.P. and any other person or entity who is or may be liable for the indebtedness evidenced by the Note or obligations secured by the Mortgage.

8. In accordance with 735 ILCS 5/15-1402(c), ARBORETUM HOLDINGS LLC waives any right to a personal judgment for deficiency against ABT Owner 1, L.P. and any other person or entity who is or may be liable for the indebtedness (or any portion thereof) evidenced by the Note or obligations secured by the Mortgage, including any guarantor(s) therefor.

9. Further, upon entry of this Judgment of Foreclosure by Consent, Starwood Opportunity Fund X U.S., L.P., a Delaware limited partnership, and Starwood Opportunity Fund X Global, L.P. a Delaware limited partnership, as Guarantors of the Note or obligations secured by the Mortgage (collectively, "Guarantors"), shall be fully and finally released by ARBORETUM HOLDINGS LLC from any and all claims, demands, obligations, actions, causes of action, damages, costs, losses, debts, taxes, interest, penalties, expenses and liabilities of any kind (upon any legal or equitable theory, whether contractual, common law, statutory, federal, state, local or otherwise, and including, but not limited to, claims for fees, costs and disbursements of any kind) (collectively, "Claims") made pursuant to that certain Recourse Carve-Out Guaranty – Mortgage Loan, dated as of April 21, 2015 from Guarantors to MUFG Union Bank, N.A. (as assigned to ARBORETUM HOLDINGS LLC), whether known or unknown, which Lender now has, ever had, or hereafter may have, against Guarantors as of the date hereof, Lender has no knowledge of any Claims against Guarantors pursuant to that certain Indemnity Agreement, dated as of April 21, 2015 from Obligor and Guarantors to MUFG Union Bank, N.A. (as assigned to Lender)).

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10. The Mortgage appears on file in the office of the Recorder of Deeds, Cook County, Illinois as Document No. 1511219128. The Real Property is legally described in Schedule A attached hereto and hereby incorporated by reference.

11. The rights, title, interests, claims or liens, if any, of the Defendants in the Property are inferior to the lien of ARBORETUM HOLDINGS LLC's Mortgage and are terminated by this Judgment.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED and judgment is hereby entered as follows:

(a) Absolute title to the Property, including the Real Property which is legally described in Schedule A attached hereto, is hereby vested in ARBORETUM HOLDINGS LLC free and clear of all rights, title, interests, claims or liens, if any, of Defendants;

(b) The indebtedness evidenced by the Note which is secured by the Mortgage is deemed satisfied;

(c) ARBORETUM HOLDINGS LLC is barred from obtaining a deficiency judgment against ABT Owner I, L.P. or any person or entity who is or may be liable for the indebtedness evidenced by the Note, or other obligations secured by the Mortgage;

(d) All rights of reinstatement and redemption are barred;

(e) ARBORETUM HOLDINGS LLC releases and is thus precluded from asserting and recovering for any Claims against Guarantors in connection with that certain Recourse Carve-Out Guaranty – Mortgage Loan, dated as of April 21, 2105 from Guarantors to MUFG Union Bank, N.A. (as assigned to ARBORETUM HOLDINGS LLC);

(f) ABT Owner I, L.P. waives all rights to modify, vacate, set aside or appeal this Judgment; and

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(g) Defendants' rights, title, interests, claims or liens, if any, in the Property, are inferior to the lien of ARBORETUM HOLDINGS LLC's Mortgage and are terminated by this Judgment of Foreclosure by Consent.

Dated: June 30, 2022

Joel Chupack 2227  
Judge



Prepared by:  
Scott & Kraus, LLC – Firm ID No. 39876  
Attorneys for ARBORETUM HOLDINGS LLC  
150 South Wacker Drive  
Suite 2900  
Chicago, Illinois 60606  
(312) 327-1050 (telephone)  
(312) 327-1051 (facsimile)

I hereby certify that the document to which this certification is affixed is a true copy.  
Date **IRIS Y. MARTINEZ JUL 05 2022**  
**IRIS Y. MARTINEZ** IRIS Y. MARTINEZ  
Clerk of the Circuit Court CLERK OF CIRCUIT COURT  
of Cook County, IL  
CIRCUIT COURT  
COOK COUNTY ILLINOIS

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## SCHEDULE A

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

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## LEGAL DESCRIPTION

### **PARCEL 1:**

LOTS 1 AND 3 IN ARBORETUM OF SOUTH BARRINGTON, BEING A SUBDIVISION OF PARTS OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 30, 2007 AS DOCUMENT 0721115094 IN COOK COUNTY, ILLINOIS.

### **PARCEL 2:**

LOTS 12 AND 13 IN ARBORETUM OF SOUTH BARRINGTON THIRD RESUBDIVISION BEING A RESUBDIVISION OF LOT 8 IN ARBORETUM OF SOUTH BARRINGTON SECOND RESUBDIVISION BEING A SUBDIVISION OF PARTS OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN. ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 13, 2012 AS DOCUMENT NO. 1225729066, IN COOK COUNTY, ILLINOIS.

### **PARCEL 3:**

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY THE ARBORETUM OF SOUTH BARRINGTON DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS DATED JULY 30, 2007 AND RECORDED JULY 30, 2007 AS DOCUMENT 0721115096 FOR THE PURPOSE OF VEHICULAR TRAFFIC OVER PAVED ROADWAYS, VEHICULAR PARKING IN DESIGNATED PARKING AREAS, PEDESTRIAN TRAFFIC OVER SIDEWALKS, AND UTILITIES AND DRAINAGE, AND FOR THE PURPOSE OF UNDERTAKING MAINTENANCE OBLIGATIONS THROUGH DESIGNATED EASEMENT AREAS AS DESCRIBED IN SAID DOCUMENT.

### **PARCEL 4:**

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY THAT CERTAIN OUTPARCEL AGREEMENT DATED JANUARY 23, 2008, AS SHOWN BY THAT CERTAIN MEMORANDUM OF OUTPARCEL AGREEMENT DATED JANUARY 23, 2008 AND RECORDED JANUARY 24, 2008 AS DOCUMENT 0802403027 FOR THE PURPOSE OF USE OF PARKING AREAS, ROADWAYS, PEDESTRIAN SIDEWALKS AND LANDSCAPED AREAS UPON THE TERMS AND CONDITIONS PROVIDED THEREIN.

### **PARCEL 5:**

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY THAT CERTAIN OUTPARCEL AGREEMENT DATED JULY 25, 2008, AS SHOWN BY THAT CERTAIN MEMORANDUM OF OUTPARCEL AGREEMENT DATED JULY 25, 2008 AND RECORDED JULY 28, 2008 AS DOCUMENT 0821022072 FOR THE PURPOSE OF



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PARKING AREAS, PEDESTRIAN SIDEWALKS, AND RELATED PEDESTRIAN AREAS  
UPON THE TERMS AND CONDITIONS PROVIDED THEREIN.

**PIN:**

01-33-209-001-0000  
01-33-209-002-0000  
01-33-209-006-0000  
01-33-209-007-0000  
01-33-209-021-0000  
01-33-209-022-0000  
01-33-209-023-0000

ADDRESS: 100 W. Higgins ROAD  
South Barrington, IL 60010

Property of Cook County Clerk's Office