Doc# 2311022035 Fee \$71.00

RHSP FEE: \$9.00 RPRF FEE: \$1.00 KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 04/20/2023 12:42 PM PG: 1 OF 11

CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT—CHANCERY DIVISION

Case No. 21 CH 3277

John Colville, Iris Yuhong Gan and Kari A. Marx, individually and derivatively on behalf of the Sullivan Lane Townhomes Association Inc. n/k/a Sullivan Lane Townhomes Association.

Plaintiffs,

Sullivan Land Townhomes amortiation, Inc. n/k/a Sullivan Lane Townhomes Association; Leila Amiri; Bonnita Boone; ADRIENNE m. PCPD, MONICA H. Khetarpal; Stephanie Y. Crawford; Jane Ascroft; Mihir Pande: PWSW Properties, LLC f/k/a 22//2)1 S Oak Park Ave LLC; Mortgage Electronic Registration Systems as nominee for Guaranteed Rate, Inc.; Mortgage Electronic Registration Systems as nominee for Citiodak, N.A., Mortgage Electronic Registration Systems as nominee for Cole Taylor Bank; Mortgage Electronic Registration Systems as nominee for United Wholesale Mortgage; Mortgage Electronic Registration Systems as nominee for MB Financial Bank, N.A.; Wells Fargo Bank, N.A.; Chicago Title Land Trust Company as successor Trustee to First Bank of Oak Park as Trustee under Trust Agreement dated June 29, 1989 Trust No. 13161,

Defendants.

JUDGE DAVID B. ATKINS

MAR 3 0 2023

Circuit Court-1879

DECLARATORY JUDGMENT

County Clark THIS CAUSE coming on to be heard on Plaintiffs' Combined Motion for Stipulated, Default Summary and Declaratory Judgment on Plaintiffs' Amended Verified Complaint for Declaratory and Other Reliei, all parties with notice, the Court with jurisdiction and being fully apprised in the premises;

THE COURT HEREBY FINDS:

- This Court has jurisdiction over the parties in this case and subject matter of Plaintiffs' Amended 1. Verified Complaint for Declaratory and Other Relief (the "Amended Complaint").
- All material allegations of the Amended Complaint have been proven and are true. 2.
- On or about August 17, 1989, Defendant Chicago Title Land Trust Company as successor 3. Trustee to First Bank of Oak Park as Trustee under Trust Agreement dated June 29, 1989 Trust No. 13161 ("First Bank") caused a Declaration of Covenants, Conditions and Restrictions and Bylaws of Sullivan Lane Townhomes (the "Declaration") to be recorded with the Cook County Recorder of Deeds (the "Recorder's Office"), thereby forming the Sullivan Lane Townhomes Association Inc. n/k/a Sullivan Lane Townhomes Association (the "Association"), including the

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common elements (the "Common Elements"), at the condominium property commonly known as 425 and 429 S. Oak Park Avenue, Oak Park, Illinois (the "Premises").

- 4. The Declaration was recorded with the Recorder's Office as Document No. 89384200.
- 5. The Premises are legally described as follows:

LOTS 7 AND 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Common Address: 425 and 429 S. OAK PARK AVENUE, OAK PARK, ILLINOIS

Pern ane nt Index 16-07-327-022-0000 16-07-327-035-0000 16-07-327-034-0000 Index No.: 16-07-327-023-0000 16-07-327-024-0000 16-07-327-036-0000 6-07-327-025-0000 16-07-327-026-0000 16-07-327-027-0000 16-07-327-028-0000 16-07-327-529-0000 16-07-327-930-9900 16-07-327-031-0500 16-07-327-032-0000 16-07-327-033-0000 16-07-327-037-0000

- 6. On or about November 27, 1989, First Bank caused an amendment to the Declaration (the "First Amendment") to be recorded in the Recorder's Office as Document No. 89563927 to correct certain typographical errors appearing in Exhibits "A" and "B" to the Declaration.
- 7. Exhibit "B" to the Declaration, as amended, sets forth: (a) the higal descriptions of ten (10) dwelling parcels (individually referred to herein as a "Unit," and collectively as the "Units"), i.e., 425 A, 425 B, 425 C, 425 D, 425 E, 429 A, 429 B, 429 C, 429 T, and 429 E; (b) four (4) parking parcels (collectively, the "Initial Spaces") namely, Parking Tarcel F ("Space F"), Parking Parcel G ("Space G"), Parking Parcel H ("Space H"), and Parking Parcel J ("Space J"); and (c) the common area (the "Common Area").
- 8. On or about August 27, 1991, First Bank caused a Second Amendment to the Lecturium (the "Second Amendment") to be recorded by the Cook County Recorder of Deeds as Document No. 91441622, purporting to: (a) create the two additional spaces referenced in the Add On Provision (the "Additional Spaces," and collectively with the Initial Spaces, the "Spaces"), identified as Parking Parcels K ("Space K") and L ("Space L"); and (b) amend the Declaration so as to incorporate a corresponding revised plat of survey marked as Exhibit "P".
- 9. First Bank lacked the requisite authority to prepare, execute and record the Second Amendment because it did so beyond the one (1) year period provided for in the Declaration. In addition, First Bank included inaccurate legal descriptions of the Spaces in the Second Amendment, which error was exasperated by the fact that the deeds running from First Bank and subsequent grantors described the Spaces by metes and bounds legal descriptions instead of simply referencing their letter designation (i.e. Spaces F, G, H, J, K and L).
- 10. Following recording of the Second Amendment, First Bank delivered corrective deeds with amended legal descriptions re-conveying title to Spaces F, G, H and J to their original purchasers. However, First Bank failed to convey Spaces K and L. In addition, while the initial

owners of Units 425 C and 429 B were never conveyed parking spaces from First Bank, the owners of these Units later transferred title to Spaces F and J, respectively — which had previously been conveyed to the owners of Units 425 E and 429 C — creating a duplicate chain of title with respect to these Spaces.

- 11. For more than twenty (20) consecutive years, the then owners of Unit 425 C, 425 E, 425 B, 429 A, 429 C, and 429 B, and each of their successors in interest, have openly possessed and occupied for their own use Spaces F, G, K, L, H, and J respectively, for the purpose of parking at the Premises. Each of the Unit owners use and possession of their respective Space was to the exclusion of any other owner of the Units at the Premises.
- 12. However, record title to each of the Spaces does not reflect the possession and ownership of each Space as intended by First Bank.
- On (r pout January 10, 2013, Defendant Monica H. Khetarpal executed and delivered a mortgage (the "Cole Taylor Mortgage") to Mortgage Electronic Registration Systems, Inc. ("MERS"), as nominee for Cole Taylor, providing a lien interest in Unit 429 A and purporting to provide a lien interest in Space H. The Cole Taylor Mortgage was recorded in the Recorder's Office as Documer 1: No. 1302948011.
- 14. On or about Decembe, 22, 2019, Plaintiffs John Colville and Iris Yuhong Gan executed and delivered a mortgage (the "United Wholesale Mortgage") to Mortgage Electronic Registration Systems, Inc. ("MERS"), as nominee for United Wholesale Mortgage, providing a lien interest in Unit 429 B and Space J. The United Wholesale Mortgage was recorded in the Recorder's Office as Document No. 2002108432
- 15. On or about September 8, 2002, Plaintiffs fied their Amended Complaint.
- 16. The equities of this case are with the Plaintiffs and an order should be entered providing for the relief set forth below in Paragraphs 1 through 4.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

The Court hereby enters:

- 1. A Stipulated Judgment in favor of the Plaintiffs and against Defendants Adrienne Pope, Stephanie Y. Crawford, Jane Ascroft, Leila Amiri, Bonnita Boone, Sulli an Lane Townhomes Association Inc. n/k/a Sullivan Lane Townhomes Association, PWSW Properties. LLC f/k/a 229/231 S Oak Park Ave LLC, Mihir Pande and Monica H. Khetarpal on the Amended Complaint.
- 2. A Default Judgment in favor of the Plaintiffs and against Defendants Mortgage Electronic Registration Systems, Inc., as nominee for Citibank, N.A., Mortgage Electronic Registration Systems, Inc., as nominee for MB Financial Bank, N.A., Mortgage Electronic Registration Systems, Inc., as nominee for United Wholesale Mortgage and Chicago Title Land Trust Company as successor trustee to First Bank of Oak Park as Trustee under trust agreement dated June 29, 1989 Trust No. 13161 on the Amended Complaint.
- 3. A Summary Judgment in favor of the Plaintiffs and against Defendants Wells Fargo Bank, N.A. and Mortgage Electronic Registration Systems, Inc., as nominee for Guaranteed Rate, Inc. on the Amended Complaint.
- 4. A Declaratory Judgment in favor of the Plaintiffs and against all defendants on the Amended Complaint as follows:

- i. Approving and ratifying the creation of the Additional Spaces as separately deeded parking parcels, separate and distinct from the Association's Common Elements;
- ii. Amending the Declaration recorded as Document No. 89384200 so as to substitute the legal descriptions attached hereto as Exhibit "1" as and for the legal descriptions set forth in the existing Exhibit "B" of the Declaration recorded as Document No. 89384200 such that all references in the Declaration to Exhibit "B" shall refer to the descriptions set forth in Exhibit "1" hereto;
- iii. Amending the Declaration recorded as Document No. 89384200 so as to substitute the revised Plat of Survey attached hereto as Exhibit "2" as and for the existing Exhibit "C" of the Declaration recorded as Document No. 89384200 such that references in the Declaration to Exhibit "C" shall refer to the revised Plat of Survey attached hereto as Exhibit "2";
- iv. Finding and declaring the ownership of, and encumbrances of their respective mongages on the Spaces, according to the legal descriptions as set forth in Exhibit 1 attached pereto, as follows:
 - a. Defendant Mihir Pande is lawfully vested with fee simple title to Space F;
 - b. Defendant Adr'enne Pope is lawfully vested with fee simple title to Space G;
 - c. Defendant PWSW Properties, LLC is lawfully vested with fee simple title to Space K:
 - d. Defendant Monica H. Khetar al is lawfully vested with fee simple title to Space L, subject to the Cole Taylor Mon, age recorded in the Recorder's Office as Document No. 1302948011;
 - e. Plaintiffs John Colville and Iris Yuhong Car are lawfully vested with fee simple title to Space J, subject to the United V. lolesale Mortgage recorded in the Recorder's Office as Document No. 2002 108432
 - f. Plaintiff Kari A. Marx is lawfully vested with fee simply title to Space H free and clear of the Cole Taylor Mortgage recorded in the Recorder's Office as Document No. 1302948011.

ENTERED GE DAVID B. ATKINS

MAR 30 2023

Circuit Court-1879

Dated: , 2023

Timothy P. Collins HEPLERBROOM, LLC 70 W. Madison, Suite 2600 Chicago, IL 60602

Phone: (312) 230-9100 Fax: (312) 230-9201

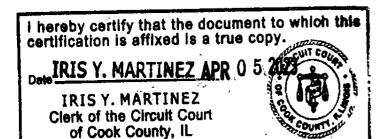
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timothy.collins@heplerbroom.com

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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 50602-1387

Exhibit "1"

425 and 429 S. Oak Park Avenue, Oak Park, Illinois 60302 Legal Descriptions of Townhomes, Parking Spaces and Common Area

COMMON AREA

THE EAST 19.50 FEET OF LOT 7; ALSO THAT PART OF LOT 7 LYING WEST OF THE EAST 116.00 FEET OF SAID LOT 7 (EXCEPTING THEREFROM THE SOUTH 28.20 FEET OF THE NORTH 39.67 FEET OF THE WEST 20.00 FEET OF SAID LOT 7); TOGETHER WITH THE EAST 19.50 FEET OF LOT 8; ALSO THAT PART OF LOT 8 LYING WEST OF THE EAST 116.00 FEET OF SAID LOT 8 (EXCEPTING THEREFROM THE NORTH 28.40 FEET OF THE SOUTH 39.80 FEET OF THE WEST 20.50 FEET OF SAID LOT 8) ALL IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 425 A

THE WEST 18.50 FF.C) OF THE EAST 38.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 M FORCE'S SUBDIVISION OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTH 1/2 OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MEPLIDIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 425 B

THE WEST 20.00 FEET OF THE EAST 58.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 425 C

THE WEST 20.00 FEET OF THE EAST 78.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNS: 13 P 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLE (OI)

DWELLING PARCEL 425 D

THE WEST 20.00 FEET OF THE EAST 98.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANCE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 425 E

THE WEST 18.00 FEET OF THE EAST 116.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 429 A

THE WEST 18.10 FEET OF THE EAST 37.60 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

425 and 429 S. Oak Park Avenue, Oak Park, Illinois 60302 Legal Descriptions of Townhomes, Parking Spaces and Common Area

DWELLING PARCEL 429 B

THE WEST 20.00 FEET OF THE EAST 57.60 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

DWELLING PARCEL 429 C

THE WEST 20.00 FEET OF THE EAST 77.60 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 429 D

THE WEST 20.00 FEET OF THE EAST 97.60 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 PJ FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERICIAN, IN COOK COUNTY, ILLINOIS.

DWELLING PARCEL 429 E

THE WEST 18.40 FEET OF THE EAST 16.00 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARKING PARCEL F

THE SOUTH 9.40 FEET OF THE NORTH 20.87 FEET CATHE WEST 20.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MEXIDIAN, IN COOK COUNTY, ILLINOIS.

PARKING PARCEL G

THE SOUTH 9.40 FEET OF THE NORTH 30.27 FEET OF THE WEST 20.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COCK COUNTY, ILLINOIS.

PARKING PARCEL K

THE SOUTH 9.40 FEET OF THE NORTH 39.67 FEET OF THE WEST 20.00 FEET OF LOT 7 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

425 and 429 S. Oak Park Avenue, Oak Park, Illinois 60302 Legal Descriptions of Townhomes, Parking Spaces and Common Area

PARKING PARCEL L

THE NORTH 9.47 FEET OF THE SOUTH 39.80 FEET OF THE WEST 20.50 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARKING PARCEL H

THE NORTY 9.47 FEET OF THE SOUTH 30.33 FEET OF THE WEST 20.50 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARKING PARCEL J

THE NORTH 9.47 FEET OF THE SOUTH 20.86 FEET OF THE WEST 20.50 FEET OF LOT 8 IN BLOCK 4 IN THE SUBDIVISION OF BLOCKS 2, 3 AND 4 IN FORCE'S SUBDIVISION OF THE SOUTH ½ OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COUR COUNTY CLERK OFFICE RECORDING DIVISION
18 N. CLARK ST. ROOM 120
2460. IL 50602-1387 RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO. IL 50602-1387

Exhibit "2"

