

# UNOFFICIAL COPY

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KAREN A. YARBROUGH

LEVY, LEVY & LEVY  
1299 Fourth Street, Suite 400  
San Rafael, CA 94901

COOK COUNTY CLERK

DATE: 08/31/2023 02:13 PM PG: 1 OF 10

Attn: Mark Levy, Esq.

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ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT

Property of Cook County Clerk's Office

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**Bria of Forest Edge  
Chicago, Illinois  
FHA Project No. 071-22186**

## ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT

This **ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT** (the "Agreement") is made as of the 31st day of August, 2023, by and among **BEVERLY PAVILION, LLC**, an Illinois limited liability company (herein, the "Transferor"), **FOREST EDGE HEALTHCARE & REHABILITATION CENTER REALTY LLC**, an Illinois limited liability company (herein, the "Transferee"), and **CAMBRIDGE REALTY CAPITAL LTD. OF ILLINOIS**, an Illinois corporation (herein, the "Lender").

WHEREAS, Transferor, Lender, and others consummated a loan insured by the U.S. Department of Housing and Urban Development by and through the Secretary, his or her successors, assigns or designates (herein "HUD") that closed on **April 26, 2012** (herein, the "Loan Closing"), relating to a certain **assisted living facility** known as **Bria of Forest Edge**, FHA Project No. **071-22186** (herein, the "Project"), pursuant to the provisions of Section 232 pursuant to **Section 232/223(a)(7)** of the National Housing Act of 1934, as amended, and located on the real property as more particularly described in Exhibit A and attached hereto and incorporated by reference herein (hereinafter referred to as the "Property"); and

WHEREAS, in connection with such Loan Closing, Transferor entered into, executed, and/or approved (without limitation) (i) that certain **Mortgage** (the "Security Instrument") dated **April 1, 2012** and recorded **April 26, 2012** as Document No. **1211729041** with the County of Cook, Illinois Recorder's Office (the "Official Records"), (ii) that certain **Mortgage Note** secured thereby, dated **April 1, 2012** in the original principal amount of **\$17,721,500.00** (the "Note"), (iii) that certain **Regulatory Agreement for Multifamily Housing Projects** (the "Regulatory Agreement") dated **April 1, 2012** and recorded **April 26, 2012** as Document No. **1211729042**, in the Official Records, (iv) the UCC Financing Statements filed with the Secretary of State of Illinois and in the Official Records in connection therewith (hereinafter collectively referred to as the "Loan Documents"); and

WHEREAS, the Transferor will be conveying the Project to the Transferee and the Transferee will succeed to all right and obligation of Transferor in, to and under the Property; and

WHEREAS, the Transferor and Transferee desire to transfer the Property to Transferee and to effectuate the release, assignment, modification and assumption of the Loan Documents as provided herein with the consent of Lender and HUD.

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NOW, THEREFORE, in consideration of the consent of the Lender and HUD to the transfer of the Property and to the release, assignment and assumption of the Loan Documents, and in order to comply with the requirements of HUD, the National Housing Act of 1934, and its implementing regulations, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

2. Effective as of the date of recordation of the deed conveying title to the Property of the Transferee, (the "Effective Date"), (i) the Transferee agrees to assume, and hereby assumes, except as limited and modified herein, and to be bound by said Security Instrument, Note, Regulatory Agreement, and the Loan Documents; and (ii) the Transferor shall be released from any further liability under the Note, Security Instrument, Regulatory Agreement, and Loan Documents, excepting that the Transferor shall remain liable under said Regulatory Agreement with respect to the matters hereinafter stated, namely:

- (a) for funds or property of the Project coming into their hands which, by the provisions thereof, they are not entitled to retain; and
- (b) for their own acts and deeds or acts and deeds of others which they have authorized in violation of the provisions thereof;
- (c) for acts and deed of affiliates which they have authorized in violation of the provisions of the Regulatory Agreement; and
- (d) as otherwise provided by law.

3. Notwithstanding anything provided herein, due to the non-recourse nature of the Note, neither the Transferee nor any of its owners, members, managers, directors, or officers, present or future, assume personal liability for failure to make payments due under said Note and Security Instrument, or for the payments to be reserve for replacements or for matters not under their control, provided that the Transferee, and its present and future owners, directors and officers, shall remain personally liable under said Regulatory Agreement only with respect to the matters hereinafter stated, namely:

- (a) for funds or property of the Project coming into their hands which, by the provisions thereof, they are not entitled to retain; and
- (b) for their own acts and deeds or acts and deeds of others which they have authorized in violation of the provisions thereof;
- (c) for acts and deed of affiliates which they have authorized in violation of the provisions of the Regulatory Agreement; and
- (d) as otherwise provided by law.

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4. The Transferee agrees to be bound by said Note, Security Instrument, Regulatory Agreement, and Loan Documents, subject to the foregoing limitation of personal liability, with respect to all obligations occurring from and after the Effective Date, to the same extent as if it has been an original party to said instruments;

5. The Transferee agrees that there shall be full compliance: (a) with the provisions of any laws prohibiting discrimination in housing on the basis of race, sex, color, creed, national origin, familial status or handicap and (b) with the regulations of the Federal Housing Administration providing for nondiscrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for HUD to take any corrective action HUD may deem necessary, including but not limited to, the rejection of future applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the Transferee is identified; and further, HUD shall have a similar right of corrective action. (a) with respect to any individuals who are officers, directors, principal stockholders, trustees, managers, partners or associates of the Transferee; and (b) with respect to any corporation or any other type of business association or organization with which the officers, directors, principal stockholders, trustees, managers, partners or associates of the Transferee may be identified.

6. The Transferor acknowledges and affirms to the Lender and HUD that, as of the date hereof, there are no defenses, set-offs or counterclaims, whether legal or equitable, to the Transferor's obligations under the Loan Documents and the Transferor hereby waives the right to raise or assert any such defenses, set-offs or counterclaims that the Transferor may have had with respect to any suit, proceeding or foreclosure action under any of said instruments that the Lender or HUD, or any of its or their predecessors in interest in and to the Loan may or could have brought against the Transferor prior to the date hereof.

7. Nothing in this Agreement shall in any way impair the Note or any other security now held for such indebtedness, or alter, waive, compromise, annul, impair or prejudice any provision, condition or covenant in the Loan Documents, except as specifically provided herein, nor affect or impair any rights, powers or remedies of the Lender or HUD under the Loan Documents, nor create a novation or new agreement by and between the parties thereto, it being the intent of the parties that the terms and provisions of the Loan Documents, are expressly approved, ratified and confirmed, and shall continue in full force and effect except as expressly modified hereby, and that the lien of the Mortgage and the priority thereof shall be unchanged.

8. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and/or assigns. The Lender's execution and delivery of this Agreement is contingent upon the execution and delivery of this Agreement by HUD.

9. All of the terms, covenants, conditions and agreements hereof shall be

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binding upon, and shall insure to the benefit of, the parties hereto and their respective successors and assigns.

10. The parties agree that this Agreement is not in any way intended to, and does not in any way, affect priority of the Loan Documents.

11. This Agreement shall be governed by the laws of the State of Illinois and the United States of America.

12. This Agreement may be executed in any number of counterparts, all of which counterparts shall be construed together and shall constitute but one agreement.

**(The rest of this page is intentionally left blank;  
the signature pages follow this page.)**

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IN WITNESS WHEREOF, the undersigned have hereunto executed this Assignment, Assumption and Modification Agreement effective as of the day and year first above written.

**TRANSFOROR:**

**BEVERLY PAVILION, LLC,**  
an Illinois limited liability company

By: \_\_\_\_\_  
Name: Arvin Weinfield  
Its: managing member

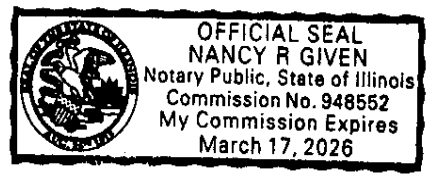
**ACKNOWLEDGMENT**

STATE OF ILLINOIS             )  
  ) ss:  
COUNTY OF COOK            )

On this 19<sup>th</sup> day of July, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Arvin Weinfield, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[SEAL]

Nancy R Given  
Notary Public



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**TRANSFeree:**

**FOREST EDGE HEALTHCARE & REHABILITATION CENTER REALTY, LLC,**  
an Illinois limited liability company

By: [Signature]  
Name: Avrum Weinfeld  
Its: Manager

**ACKNOWLEDGMENT**

STATE OF ILLINOIS )  
) ss.

COUNTY OF COOK )

On this 19<sup>th</sup> day of July, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Avrum Weinfeld, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[SEAL]

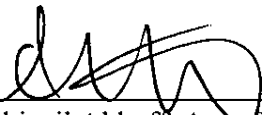
[Signature]  
Notary Public



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**LENDER:**

**CAMBRIDGE REALTY CAPITAL LTD. OF ILLINOIS,**  
an Illinois corporation

By:   
Abigail Althoff, Asst. Secretary

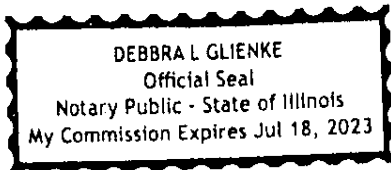
**ACKNOWLEDGMENT**

STATE OF ILLINOIS

COUNTY OF COOK

On this 17<sup>th</sup> day of July, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared **Abigail Althoff**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[SEAL]



  
Notary Public

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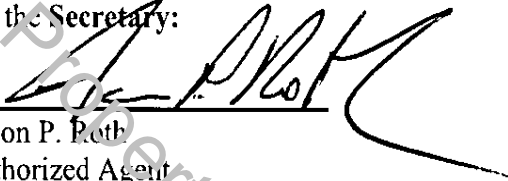


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Consent to the foregoing Assignment, Assumption and Modification Agreement is hereby given by HUD.

HUD:

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**, acting by and through the Secretary:

By:   
Jason P. Roth  
Authorized Agent  
Office of Residential Care Facilities

### ACKNOWLEDGEMENT

STATE OF MARYLAND )

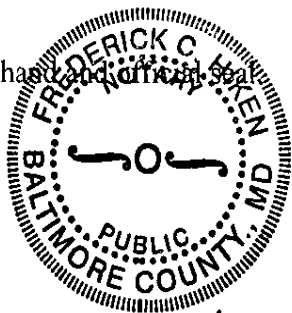
CITY OF BALTIMORE )

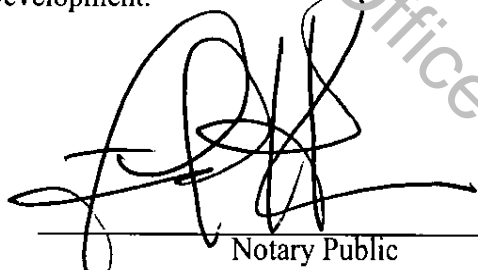
SS:

On this 24 day of JULY 2023, before me, a notary public in and for the jurisdiction aforesaid, personally appeared Jason P. Roth, who acknowledged that he is the Authorized Agent of the Secretary of U.S. Department of Housing and Urban Development, acting by and through the Federal Housing Commissioner, and Supervisory Account Executive in the Office of Residential Care Facilities, U.S. Department of Housing and Urban Development, and that she, being authorized to do so by virtue of such office, executed the foregoing instrument on behalf of the Federal Housing Commissioner, acting for the Secretary of the U.S. Department of Housing and Urban Development.

Witness my hand and official seal

[SEAL]



  
Notary Public  
FREDERICK C HICKEN  
(Print Name)

My commission expires: 3/22/25

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## EXHIBIT A

### LEGAL DESCRIPTION

Lots 18 to 28 both inclusive, in Block 3 in C.H. Beckwith's Subdivision of Blocks 14 and 15 in Hunter's Subdivision of the Northwest  $\frac{1}{4}$  of Section 31, Township 38 North, Range 14 East of the Third Principal Meridian in Cook County, Illinois.

Common address: 8001 S. Western Ave., Chicago, Illinois 60620

P.I.N.: 20-51-108-044-0000

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