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PLACITA JUDGMENT

AGREED ORDER, etc., 86260001

(10-84) CCDCH-6

UNITED STATES OF AMERICA

STATE OF ILLINOIS,
COUNTY OF COOK ss.

86266081

Thomas J. O'Brien

PLEAS, before the Honorable
one of the Judges of the Circuit Court of Cook County, in the State of Illinois, holding a branch Court of said
Court, at the Court House in said County, and State, on
-JUNE 13th
in the year of our Lord, one thousand nine hundred and-86..... and of the Independence
of the United States of America, the two hundredth and-TENTH.....

PRESENT: - The Honorable Thomas J. O'Brien
Judge of the Circuit Court of Cook County.

RICHARD M. DALEY, State's Attorney

RICHARD J. ELROD, Sheriff

Attest: MORGAN M. FINLEY, Clerk.

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2011/12/11

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IN THE CIRCUIT COURT OF COOK COUNTY COUNTY DEPARTMENT, CHANCERY DIVISION

Trustees of Central States,
Southeast and Southwest Area
Pension Fund,

Plaintiff,

vs.

LaSalle National Bank, as Trustee
Under Trust Agreement dated
December 18, 1975 and known as
Trust No. 21599, et al.,

Defendants.

No. 86 CH 00073

Consolidated Capital Income Opportunity
Trust, a California Business Trust and
Thomas J. Fitzmyers, Terry E. Sheldon,
Albert A. Schaaf, Robert J. Blake,
Douglas Temple, Betty Hood-Gibson
and Fred H. Fields, not individually,
but as Trustees of Consolidated Capital
Income Opportunity Trust,

Counter-Plaintiffs,

vs.

LaSalle National Bank, as Successor
Trustee to Exchange National Bank of
Chicago, as Successor Trustee to Central
National Bank in Chicago, as Trustee under
Trust Agreement dated December 18, 1975,
and known as Trust No. 21599; American
National Bank and Trust Company of Chicago,
as Trustee Under Trust Agreement dated
October 1, 1976, and known as Trust
No. 39552; Chicago Investment Corporation,
James F. Graves; 29 East Madison
Associates; Westmont Interior Supply
House, Inc.; Howard Hieshima; Unknown
Owners and Non-Record Claimants,

Counter-Defendants.

AGREED ORDER FOR
JUDGEMENT OF FORECLOSURE AND SALE AND DEFAULT JUDGMENT

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In this action for mortgage foreclosure and other relief, plaintiffs and counter-plaintiffs have jointly moved for entry hereof. Due notice has been given to all parties entitled thereto, and this Court has considered the entire record in this case, including without limitation all pleadings, orders and affidavits hereinafter referenced.

WHEREFORE, the Court finds:

A. Defendants LaSalle National Bank as Trustee under Trust No. 21599 ("LaSalle Bank Land Trust"), James F. Graves ("Graves"), 29 East Madison Associates (100% beneficiary of Defendant American National Bank and Trust Co. of Chicago Trust No. 39552), Lincoln National Pension Insurance Company ("Lincoln"), and Consolidated Capital Income Opportunity Trust, and Thomas J. Flannery, Terry E. Sheldon, Albert A. Schaaf, Robert J. Blake, Douglas Temple, Betty Hood-Gibson and Fred H. Fields, not individually, but as Trustees of Consolidated Capital Income Opportunity Trust (collectively "CCIOT"), and Plaintiff Trustee of the Central States, Southeast and Southwest Areas Pension Fund ("Fund") have all submitted to the jurisdiction of this Court and consented to the entry of this order by reason of their having agreed and being bound to that certain Agreed Order Modifying Automatic Stay and Granting Other Relief ("Bankruptcy Order") entered on April 29, 1986 by the United States Bankruptcy Court for the Northern District Of Illinois in the case entitled In Re 29 East Madison Associates, Case No. 86 B 2240. In addition, the foregoing defendants (except Graves and 29 East Madison Associates) were properly served with the Complaint and were served with the Counter-Complaint. Graves has

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signed a stipulation independently of the Bankruptcy Order, for the entry of this Order. 29 East Madison Associates was an Unknown Owner at the time of the filing of the Complaint and Counter-Complaint. 29 East Madison Associates has executed a stipulation agreeing to be named as a defendant herein, waiving service of process and its rights to appear and answer the Complaint and Counterclaim, and agreeing to the entry of this Order.

F. Counter-defendants and Defendants American National Bank and Trust Co. of Chicago Trust No. 39552 ("American Bank Land Trust"), Chicago Investment Corporation; Westmont Interior Supply House, Inc., and Howard Hieshima properly were served with the counter-plaintiffs' Counter-Complaint. Due and proper notice has been given to each of them and this Court now has jurisdiction over all of the counter-defendants in this case and the subject matter hereof. All such defendants and Counter-defendants have failed to appear, or plead to the Complaint or Counter-Complaint, and are therefore in default.

C. Unknown owners and nonrecord claimants have been duly notified of the Complaint and Counter-Complaint by publication in accordance with Ill. Rev. Stat., ch. 110 §15-106, and are in default for failure to appear and plead herein;

D. As previously found in the Bankruptcy Order, Defendants LaSalle Bank Land Trust and American Bank Land Trust (collectively "Borrowers" or "Mortgagors") are in default of that Part Purchase Money Mortgage and Modification Agreement and Amendment to Mortgage, Security Agreement and Assignment of Leases and Rents (collectively, "Fund Mortgage") and

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Installment Note and Promissory Note (the "Notes") attached respectively as Exhibits A, B(1) and B(2) to the Complaint, as follows:

- (i) In contravention of paragraph II(2)(a) of the Fund Mortgage, Mortgagors have failed and refused to remit into escrow funds for taxes. The monthly required remittance is \$34,629.00, as set forth in that "Escrow Billing Calculation" attached hereto as Exhibit C to the Complaint. As of the date the Complaint is filed, Mortgagors have failed to make such payments in full and is in default in the sum of \$48,145.
- (ii) In contravention of Section II(6) of the Fund Mortgage, Mortgagors have permitted tax liens to arise in excess of the current balance of the tax escrow account.
- (iii) In further contravention of Section II(b) of the Fund Mortgage, Mortgagors have encumbered the premises with a mortgage in favor of CCIOT in the original principal sum of \$12,475,800.
- (iv) In contravention of paragraph II(4) of the Fund Mortgage, Mortgagors have failed to furnish the financial information required thereby, including, without limitation, receipted tax bills, balance sheets and income/expense statements.
- (v) Pursuant to Section IV(1) of the Fund Mortgage, the defaults described above have caused an acceleration of all indebtedness due mortgagee, which remains past due and unpaid.

E. By reason of the Fund Mortgage and Notes, and by reason of the Bankruptcy Order, and as more fully set forth in the Affidavit of Thomas Yamin, the Fund has a valid and perfected first and prior lien on the Property securing indebtedness as follows:

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Principal Balance owed under the Installment Note	\$3,037,461.00
Interest accrued through June 13, 1986 on Installment Note	\$ 142,760.00
Principal Balance Owed on Promissory Note . . .	\$ 231,889.00
Interest accrued through June 13, 1986 on Promissory Note	\$ 186,984.00
Attorneys' Fees and Costs as of June 1, 1986 . . .	\$ 21,857.54
Less Adequate Protection Payments received pursuant to Court Order in 29 E. Madison Associates Bankruptcy Case	(\$ 47,401.54)
Anticipated Additional Costs	\$ 5,000.00
TOTAL:	<u>\$3,578,550.00</u>

J. As previously found in the Bankruptcy Order, Borrowers are in default under the All-Inclusive Mortgage, Assignment of Rents and Security Agreement (the "CCIOT Mortgage") and the All-Inclusive Promissory Note Secured by Mortgage (the "CCIOT Note"), attached as Exhibits A and B, respectively, to counter-plaintiffs' Counter-Complaint:

(i) for failing and refusing to make the required amortized interest installment payments on November 15, 1985 and December 15, 1985;

(ii) for failing and refusing to pay on December 16, 1985 the principal amount of the CCIOT Note, and all accrued and unpaid interest and other charges due under the CCIOT Note, after counter-plaintiffs, in the December 4, 1985 Demand Letter and Notice of Acceleration (the "Demand Letter") to counterdefendants Graves and Chicago Investment Corpora-

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tion, attached as Exhibit F to counter-plaintiffs' Counter-Complaint, properly accelerated payment under the CCIOT Note as a result of the above-described default;

(iii) for failing and refusing to make tax impound payments of \$37,500 and by allowing such taxes to become delinquent; and

(iv) for defaulting under a senior mortgage and causing the notes secured by such mortgage to be accelerated.

K. By reason of the CCIOT Mortgage and Note, the Bankruptcy Order, and as more fully set forth in the Affidavit of Mark S. Anderson, there is due to counter-plaintiffs, and they have a valid and subsisting lien on the Property for, the following amounts:

Principal Balance owed under the CCIOT Note . . .	\$12,867,295.20
Principal Amount of Underlying Loans:	
Net Principal:	(\$ 8,349,009.14)
Interest accrued through Date of Foreclosure Decree	\$ 1,878,501.68
Cash Outlays to Senior Mortgagees and to pay taxes	\$ 148,504.00
Late Charges	7,931.40
Attorneys' Fees as of May 31, 1986	52,170.50
Filing and Publication Fees and Other Costs of Suit	511.46
Telephone, Telegraph, and Courier	401.90
Duplication and Document Preparation.	1,844.95
Miscellaneous	16,080.35
Anticipated Additional Costs	<u>3,500.00</u>
TOTAL:	<u>\$ 8,625,732.28</u>

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L. In the CCIOT Mortgage and Fund Mortgage, it is provided that the attorneys for counter-plaintiffs are entitled to reasonable attorneys' fees. The amounts included in the above indebtedness as and for those attorneys' fees are supported by affidavit and constitute the usual, customary, and reasonable charge made by attorneys in like cases, and are hereby allowed to plaintiffs and counter-plaintiffs;

M. Under the provisions of the CCIOT Mortgage and Fund Mortgage, the costs of this foreclosure are an additional indebtedness that plaintiffs and counter-plaintiffs are entitled to recover. Such costs, together with the anticipated additional costs of this foreclosure, are hereby allowed to plaintiffs and counter-plaintiffs;

N. The Fund's Mortgage appears of record in the Office of the Recorder of Deeds of Cook County as Document No. 23448330 and the Modification (Amendment) thereto appears of record as Document No. 26218414. The CCIOT Mortgage appears of record in the Office of the Recorder of Deeds of Cook County, Illinois as Document No. 27078835, the First Modification thereto was placed of record as Document No. 27174107 and the Second Modification thereto was placed of record as Document No. 85105819. As used herein the term "Lincoln Mortgage" means the mortgage dated April 30, 1982 and placed of record in the office of the Recorder of Deeds of Cook County, Illinois as Document No. 26218415.

O. The Property encumbered by the Fund Mortgage, Lincoln Mortgage and CCIOT Mortgage and directed to be sold is described as follows:

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Parcel 1:

The Land (except for the buildings and improvements now located on the Land).

Parcel 2:

The Leasehold estate, created by the instrument herein referred to as the Lease, executed by:

Central National Bank in Chicago, as Trustee under Trust Agreement dated December 18, 1975 and known as Trust Number 21599, as Lessor, and American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated October 1, 1976 and known as Trust Number 39552, as Lessee, a memorandum of which was recorded December 27, 1976 as Document 23759265, which Lease, as amended, demises the Land (except for the building and improvements now located on the Land) for a term of years ending December 31, 2011.

Parcel 3:

The ownership of the buildings and improvements now located on the Land.

The Land:

P.I.N. 17-15-100-018

Lot 1 (except the south 1.06 feet) in Block 2 in fractional section 15 addition to Chicago, in township 39 north, range 14, East of the Third Principal Meridian, in Cook County, Illinois.

P. The rights and interests of all defendants to this action in and to the Property are inferior to the lien of plaintiffs under the Fund Mortgage. The rights and interests of all counter-defendants to this action in and to the Property are inferior to the lien of counter-plaintiffs under the CCIOT Mortgage; and

Q. The Fund Mortgage and CCIOT Mortgage were executed after August 7, 1961. The liens of plaintiffs and counter-plaintiffs under said mortgages are governed therefore by the provisions of Ill. Rev. Stat., ch. 110 § 12-128.

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Based on the foregoing findings of fact, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. This Court hereby enters its final decree and judgment of foreclosure and sale under the Complaint and Counter-Complaint in favor of plaintiffs and counter-plaintiffs and against all defendants (except Lincoln and Edward Rosewell) and counter-defendants. Nothing herein shall preclude the Fund from moving to foreclose Lincoln's mortgage if at the sale herein decreed CCIOT does not bid in the full amount of Debt owed the Fund.

2. Defendant, Edward Rosewell herein sued, not individually, but as ex officio collector of taxes, is hereby dismissed as a defendant in this action, and his interests, including but not limited to liens for unpaid taxes, are expressly not foreclosed by this order.

3. 29 East Madison Associates is hereby added as a defendant and counter-defendant herein in accordance with its stipulation, and as if originally named as a defendant and counter-defendant in the Complaint and Counter-Complaint.

4. Pursuant to Ill. Rev. Stat., ch. 110 §§ 15-105, 15-106, the right of nonrecord claimants to redeem the Property shall be and is hereby forever barred, and this decree and judgment of foreclosure and sale shall be conclusive against them as if each had been made a party by name and served as provided by law.

5. This Court hereby appoints Bruce J. Waldman to be the Commissioner ("Commissioner") to sell the Property and to perform the other

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services otherwise to be performed by the Sheriff, and the Commissioner shall receive reasonable compensation for his disbursements and for his services from the proceeds of sale of the Property pursuant to later order of this Court taking into account his customary rates for such services. Unless, prior to 9:00 a.m. local Chicago time on July 7, 1986, there shall be paid to plaintiffs and counter-plaintiffs the sum of the principal balance and the accrued interest mentioned above in paragraphs I and K, together with per diem interest from the date of this decree through the date of sale at the post-judgment rate, together with all additional costs allowed to plaintiffs and counter-plaintiffs, with interest thereon at the lawful rate, the Property, together with all improvements thereon and appurtenances belonging thereto, or so much thereof as may be necessary to pay the amounts found above to be due to plaintiffs and counter-plaintiffs and that may be sold separately without material injury to the parties in interest, shall be sold at public sale, to the highest bidder for cash, by the Commissioner at 10:00 a.m. local Chicago time on July 7, 1986 ("Sale Date") in the Courtroom occupied by the Honorable Robert L. Eisen, 16th floor, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois.

6. The Sale Date may be continued to the time and date of closing ("Closing Date") stated in a written agreement to purchase the Premises ("Contract") which is delivered to the Secured Creditors and the Court on or before the Sale Date; provided that (a) said Closing Date is not later than September 5, 1986; (b) the Contract provides for the payment, in cash on the Closing Date, of a purchase price greater than or equal to the amount of the

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indebtedness to the Fund, Lincoln, and CCIOT and of real estate taxes and accrued interest (approximately \$15.4 million) as of the Closing Date ("Purchase Price"); (c) the purchaser under the Contract delivers a cashier's or certified check to the order of the Secured Creditors and the Commissioner on or before July 7, 1986 in the amount of ten percent of the Purchase Price, which payment shall be noncontingent and nonrefundable earnest money; and (d) the form and substance of the Contract otherwise is acceptable to the Fund, Lincoln and CCIOT and their counsel, in the reasonable exercise of their discretion.

7. The Commissioner shall give public notice of the time, place, and terms of sale as provided in Ill. Rev. Stat., ch. 110 §12-115. The Commissioner, pursuant to the terms hereof, may adjourn the sale by appearing and notifying all parties present of the date and time of such continuance without further publication. Plaintiffs, counter-plaintiffs or any of the parties may bid at each sale. Upon such sale being made and upon confirmation thereof, the Commissioner shall execute and deliver to the purchaser or purchasers a good and sufficient deed of conveyance of the Property. Thereupon, the grantee or grantees in such deed, or any legal representative or assign, shall be let into possession of the Property. Any of the parties to this cause who shall be in possession of the Property or any portion thereof, or any person who may have come into such possession under them, or any of them since the commencement of this suit, shall, upon the production of the Commissioner's deed of conveyance, surrender possession of the Property to said grantee or grantees, or any representative or assign, and in default of so doing, a writ of assistance shall issue.

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8. The Commissioner, upon making the sale, shall with all convenient speed report the sale to this Court for its approval and confirmation, and shall likewise report the distribution of the proceeds of sale and his actions in connection therewith. Out of the proceeds of the sale, the Commissioner shall make distribution in the following order of priority:

(a) to the Commissioner for his fees, disbursements, and commission on such sale; and then

(b) to the Fund or its attorneys, all amounts mentioned above remaining unpaid after setting off and applying the tax and insurance escrow deposits and the payments received by the Fund from rents from the Property to the indebtedness under the Fund Note, together with interest from the date of the foreclosure decree on such amounts at the lawful rate plus reasonable attorneys' fees and costs incurred after that date; and then

(c) to counter-plaintiffs or their attorneys, all amounts mentioned above together with interest from the date of the foreclosure decree on such amounts at the lawful rate.

9. The Commissioner shall take receipts from the respective parties to whom he may have made payments as aforesaid and file the receipts with his report of sale and distribution in this Court. If after the payments of all the foregoing amounts there shall be a remainder, the Commissioner shall hold the surplus subject to the further order of this Court. If there shall not be sufficient funds to pay in full the amounts found above to be due to plaintiffs and counter-plaintiffs, the Commissioner shall specify the amount of deficiency in his report of sale.

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10. Upon the Commissioner making such sale and by reason of defendants (other than Lincoln) and counter-defendants having waived any and all rights of redemption, defendants (other than Lincoln) and counter-defendants, and all persons claiming under them, or any of them since the commencement of this suit, shall be forever barred and foreclosed of and from all rights and equity of redemption or claim of, in, or to the Property or any part thereof. The ownership rights of the American Bank Land Trust and LaSalle Bank Land Trust in the Property and in the profits and losses thereof (subject to the rights of CCIOT, the Fund and Lincoln under their respective mortgages, assignments of rent and leases and this decree and the rights of CCIOT as mortgagee in possession) shall not be extinguished until such sale. Notwithstanding any provision in this foreclosure decree to the contrary, such sale shall not affect the lien of the Lincoln Mortgage on the Property.

11. This Court hereby retains jurisdiction (which is non-exclusive as to those matters described in paragraph 18 of the Bankruptcy Order) of the subject matter of this cause and of all the parties hereto for the purpose of enforcing this decree and judgment, and expressly finds that there is no just reason for delaying the enforcement of this decree or an appeal therefrom.

Dated: _____

ENTER:

ENTERED CLERK OF THE CIRCUIT COURT MORGAN M. FINLEY JUN 13 1986 JUDGE THOMAS J O'BRIEN DEPUTY CLERK _____

Circuit Judge

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COOK COUNTY RECORDER

STATE OF ILLINOIS,
COUNTY OF COOK

ss.

I, MORGAN M. FINLEY, Clerk of the Circuit Court of Cook County, in and for the State of Illinois, and the keeper of the records, files and seal thereof, do hereby certify the above and foregoing to be true, perfect and complete
AGREED ORDER, etc.,
COPY OF A CERTAIN JUDGMENT MADE AND ENTERED OF RECORD IN SAID COURT:

.....
.....
.....
.....
.....

86266081

in a certain cause lately pending in said Court, between

TRUSTEES OF CENTRAL STATES, SOUTHEAST & SOUTHWEST AREA PENSION FUND, etc., et al.,
plaintiff/petitioner

and ... LA SALLE NATIONAL BANK, et al., defendant/respondent.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed

the seal of said Court, in said County, this ... 17th

day of ... JUNE ... 19.. 86

Morgan M. Finley Clerk

Returns to Box 408

o'hr.en

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