

C. 3866

AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT

THIS AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT (this "Amendment") is made as of March 28, 1990, by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, not personally but as Trustee under Trust Agreement dated June 1, 1985 and known as Trust No. 64424 ("Mortgagor") and ARLINGTON HEIGHTS HOUSING PARTNERS LIMITED PARTNERSHIP, a Wisconsin limited partnership ("Borrower") to LASALLE NATIONAL BANK, a national banking association ("Mortgagee"), as Trustee under a Trust Indenture dated June 1, 1985 (the "Indenture") by and between itself and the Village of Arlington Heights. This Amendment amends the Mortgage and Security Agreement made as of June 1, 1985 (the "Original Mortgage") by Mortgagor and Borrower to Mortgagee and recorded with the Recorder of Deeds of Cook County on July 2, 1985 as document no. 85086768 and filed with the Registrar of Titles of Cook County on July 2, 1985 as document no. 3445548, concerning the real estate located in the County of Cook in the State of Illinois and legally described on *Exhibit A* attached to and made part of this Amendment (the "Land"). All capitalized terms not defined in this Amendment shall have the meanings ascribed to them in the Original Mortgage.

RECITALS

(a) Mortgagor and Borrower have previously executed and delivered the Original Mortgage, under which they granted to Mortgagee all of their right, title and interest, now or hereafter acquired, in and to the Land, and all buildings, improvements, fixtures, machinery, furniture equipment and other personal property, intangibles, materials, tenements, hereditaments and appurtenances and other property interests pertaining to the Land and all of their right, title and interest in, to and under all leases affecting the Land or any part of the Land.

(b) The Original Mortgage secures the obligations of Mortgagor and Borrower (i) under the Financing Agreement, (ii) under the First Note, (iii) to pay the principal and purchase

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price of, and the interest on, the Bonds and (iv) to pay all other sums which may become payable to Mortgagee under the Original Mortgage, the First Note and the Financing Agreement.

(c) Mortgagor, Borrower, the sole general partner of Borrower, the sole general partner of Borrower's general partner and the Credit Institutions entered into a Financing Restructuring Agreement dated as of January 1, 1990 (the "Restructuring Agreement"). Under the Restructuring Agreement, the parties agreed that the Indenture would be amended to allow, in any year prior to the maturity of the First Note, deferral of principal payments on the First Note to the extent that the net operating income of the multifamily housing project and incidental commercial space located on the Land (the "Project") is insufficient to allow Mortgagor and Borrower to pay operating and maintenance expenses and real estate taxes on the Project, debt service on the First Note and amounts due to the Credit Institutions under the Collateralized Credit Instrument dated as of June 1, 1985, among Mortgagor and the Credit Institutions. In order to effect the Restructuring Agreement, the Financing Agreement, the Credit Instrument, the Reimbursement Agreement and the First Note have been amended to reflect the changes to the Indenture.

(d) Mortgagor, Borrower and Mortgagee desire to amend the Original Mortgage to reflect the amendments to the Financing Agreement, the Credit Instrument, the Reimbursement Agreement and the First Note made pursuant to the Restructuring Agreement.

ARTICLE I

THE GRANT

In order to secure payment of the Indebtedness Hereby Secured, as defined in the Original Mortgage, as amended hereby, including the principal amount thereof and interest thereon and the performance of the agreements contained in the Original Mortgage, as amended hereby, and also to secure the payment of any and all other indebtedness, direct or contingent, that may now or hereafter become owing from Mortgagor and Borrower to Mortgagee and the performance of all other obligations under the Loan Documents, in consideration of the matters recited in the

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Original Mortgage, as amended hereby, Mortgagor hereby grants, bargains, sells, conveys and mortgages to Mortgagee and its successors and assigns forever the Land, and all of its estate, right, title and interest therein whether now or hereafter acquired to the Land, together with the following described property (the Land and the following described property being collectively referred to hereinbelow as the "Premises"), all of which other property is hereby pledged primarily on a parity with the Land and not secondarily:

(a) all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, appliances, equipment, furniture, and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Land, buildings, structures or other improvements, or in connection with any construction being conducted or which may be conducted thereon, and owned by Mortgagor, including all extensions, additions, improvements, betterments, renewals, substitutions, and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (the "Improvements");

(b) all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Land, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

(c) all rents, royalties, issues, profits, revenue, income and other benefits from the Premises to be applied against the Indebtedness Hereby Secured, *provided, however,* that

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permission is hereby given to Mortgagor so long as no Default has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income and other benefits as they become due and payable, but not more than one (1) month in advance thereof without consent of Mortgagee:

(d) all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the Premises whether written or oral and all agreements for use of the Premises (the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

(e) all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Land or the Improvements or the operating thereof, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Land or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Land or the Improvements shall be attached to the Land or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Land or the Improvements shall, so far as permitted by law, be deemed to be fixtures, a part of the realty, and security for the Indebtedness Hereby Secured; notwithstanding the agreement and declaration hereinabove expressed that certain articles of property form a part of the realty covered

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by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Uniform Commercial Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee as a Secured Party and Mortgagor as Debtor, all in accordance with said Uniform Commercial Code as more particularly set forth in Paragraph 15 hereof; and

(f) subject to the terms and provisions of Paragraphs 9 and 11 hereof, all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof, and Mortgagor hereby authorizes, directs and empowers Mortgagee, at its option, on behalf of Mortgagor, or the successors or assigns of Mortgagor, to adjust, compromise, claim, collect and receive such proceeds, to give proper receipts and acquittances therefor, and, after deducting expenses of portion, as selected by Mortgagee, of the Indebtedness Hereby Secured, notwithstanding the fact that the same may not then be due and payable or that the Indebtedness Hereby Secured is otherwise adequately secured.

TO HAVE AND TO HOLD the same unto Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Default as hereinafter defined, Mortgagor and Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of Illinois.

PROVIDED, NEVERTHELESS, that if Mortgagor and Borrower shall pay in full when due the Indebtedness Hereby Secured and shall duly and timely perform and observe all of the terms, provisions, covenants and agreements herein and in the Financing Agreement and the Loan Documents provided to be performed and observed by Mortgagor and Borrower, then this

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Mortgage and the estate, right and interest of Mortgagee in the Premises shall cease and become void and of no effect, but shall otherwise remain in full force and effect.

ARTICLE II

MODIFICATIONS AND AMENDMENTS OF THE ORIGINAL MORTGAGE

The Original Mortgage is modified and amended as follows:

There is added to page two of the Original Mortgage the following additional recitals:

E. The Financing Restructuring Agreement. Mortgagor, Borrower, the sole general partner of Borrower, the sole general partner of Borrower's general partner and the Credit Institutions entered into a Financing Restructuring Agreement dated as of January 1, 1990 (the "Restructuring Agreement"). Pursuant to the Restructuring Agreement, the Indenture has been amended to provide that, as of March 28, 1990, in any year prior to June 1, 2008 and to the extent net operating income of the Project is insufficient to enable Borrower to make principal payments on the First Note, scheduled principal on the First Note which is not required to be paid on June 1 of that year (including amounts deferred from prior years) shall be deferred to be treated as scheduled principal to be paid the next following June 1, provided that such deferral shall not extend the maturity of the First Note beyond June 1, 2008.

F. Amendment of Documents. In order to effect the Restructuring Agreement, the Financing Agreement, the Credit Instrument, the Reimbursement Agreement and the First Note were all amended, as of March 28, 1990, to reflect the changes to the Indenture set forth in paragraph E. All references to those documents in this Mortgage shall be deemed to refer to those documents, as so amended.

G. Amendment of the Original Mortgage. Mortgagor, Borrower and Mortgagee desire to amend the Mortgage to reflect the matters contemplated by Paragraph F.

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2. Paragraph 8 of the Original Mortgage is deleted and in its stead is substituted the following:

8. Deposit for Taxes and Insurance Premiums. In order to assure the payment of Taxes and premiums payable with respect to all Insurance Policies ("Premiums") as and when the same shall become due and payable:

(a) Mortgagor and Borrower shall deposit with Mortgagee on the first (1st) business day of each and every month, an amount equal to one-twelfth (1/12th) of the Taxes and Premiums to become due upon the Premises between one and thirteen months after the date of such deposit; provided that in the case of the first such deposit, there shall be deposited in addition an amount which, when added to the aggregate amount of monthly deposits to be made hereunder with respect to Taxes and Premiums to become due and payable within thirteen months after such first deposit, will provide (without interest) a sufficient fund to pay such Taxes and Premiums, one month prior to the date when they are due and payable. The amounts of such deposits (herein generally called "Tax and Insurance Deposits") shall be based upon Mortgagee's reasonable estimate as to the amount of Taxes and Premiums. Mortgagor and Borrower shall promptly upon the demand of Mortgagee make additional Tax and Insurance Deposits as Mortgagee may from time to time require due to (i) failure of Mortgagee to require, or failure of Mortgagor or Borrower to make, Tax and Insurance Deposits in previous months, (ii) underestimation of the amounts of Taxes and/or Premiums, (iii) the particular due dates and amounts of Taxes and/or Premiums, or (iv) application of the Tax and Insurance Deposits pursuant to Paragraph 8(c) hereof. All Tax and Insurance Deposits shall be held by Mortgagee with interest thereon accruing to the benefit of Mortgagor in accounts insured by FSLIC or FDIC with Mortgagee or with another insured institution as Mortgagee may direct.

(b) Mortgagee will, out of the Tax and Insurance Deposits, upon the presentation to Mortgagee by Borrower of the bills therefor, pay the Taxes and Premiums or will, upon the presentation of receipted bills therefor, reimburse Mortgagor or Borrower for such payments made

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by either of them. If the total Tax and Insurance Deposits on hand shall not be sufficient to pay all of the Taxes and Premiums when the same shall become due, then Mortgagor and Borrower shall pay to Mortgagee on demand the amount necessary to make up the deficiency, *provided, however,* that to the extent funds deposited in the Escrow established pursuant to the Escrow Agreement dated as of January 1, 1990, among the Lead Institution, Borrower and LaSalle National Bank, as Escrow Agent, are available and authorized to be used to defray such deficiency, such money shall be so used and Mortgagor and Borrower shall pay to Mortgagee on demand only such amounts as are required to make up any shortfall remaining after application of funds from the Escrow to such deficiency.

(c) Upon a Default under this Mortgage, Mortgagee may, at its option, without being required so to do, apply any Tax and Insurance Deposits on hand to any of the Indebtedness Hereby Secured, in such order and manner as Mortgagee may elect. When the Indebtedness Hereby Secured has been fully paid, any remaining Tax and Insurance Deposits shall be paid to Borrower. All Tax and Insurance Deposits are hereby pledged as additional security for the Indebtedness Hereby Secured, and shall be held by Mortgagee irrevocably to be applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of Mortgagor or Borrower.

(d) Notwithstanding anything herein contained to the contrary, Mortgagee, or its successors and assigns, shall not be liable for any failure to apply the Tax and Insurance Deposits unless Mortgagor or Borrower, while no Default exists hereunder, shall have requested Mortgagee in writing to make application of such Deposits on hand to the payment of the Taxes or Premiums for the payment of which such Deposits were made, accompanied by the bills therefor.

(e) The provisions of this Mortgage are for the benefit of Mortgagor, Borrower, and Mortgagee alone. No provision of this Mortgage shall be construed as creating in any party other than Mortgagor, Borrower, and Mortgagee any rights in and to the Tax and Insurance Deposits or any rights to have the Tax and Insurance Deposits applied to payment of Taxes and

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Premiums. Mortgagee shall have no obligation or duty to any third party to collect Tax and Insurance Deposits.

3. In the Original Mortgage, Paragraph 37 is deleted and in its stead is substituted the following:

37. Notices. Any notice, demand or other communication which any party hereto may desire or may be required to give to any other party hereto shall be in writing and shall be deemed given if and when personally delivered, or on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth below, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith:

(a) If to Mortgagee:

LaSalle National Bank
135 South LaSalle Street
Chicago, Illinois 60603
Attn: Corporate Trust Department

and

Cragin Federal Savings and
Loan Association
1700 Elmhurst Road
Mount Prospect, Illinois 60056
Attn: David E. Czekala, Vice President

With a copy to:

Rescorp Financial Services, Inc.
One East Wacker Drive
Suite 2900
Chicago, Illinois 60601-2098
Attn: Terry Foley

and

Keck Mahin & Cate
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Attn: Mark W. Burns, Esq.

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(b) If to Mortgagor:

American National Bank and Trust
Company of Chicago
33 North LaSalle Street
Chicago, Illinois 60690
Attn: Land Trust Department

with a copy to:

Arlington Heights Housing Partners
Limited Partnership
100 State Street
Madison, Wisconsin 53701-2020
Attention: Michael L. Morey

with a copy to:

Michael, Best & Friedrich
One South Pinckney Street
Suite 900
Madison, Wisconsin 53703
Attention: Nelson D. Flynn

Except as otherwise specifically required herein, notice of the exercise of any right, power or option granted to Mortgagee by this Mortgage is not required to be given.

ARTICLE III

MISCELLANEOUS PROVISIONS

1. The Original Mortgage, except as expressly modified by this Amendment, remains in full force and effect. This Amendment shall be given effect, and the Original Mortgage shall secure the Indebtedness Described Herein, with the same force and effect as if the modifications contained in this Amendment were so stated in the Original Mortgage as initially recorded and filed. All terms and provisions of the Original Mortgage are incorporated in this Amendment as if fully set forth in this Amendment.

2. The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of Mortgagee.

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nor constitute a waiver of any provision of the Original Mortgage, or any other documents, instruments and agreements executed and/or delivered in connection with the Original Mortgage.

3. This Amendment may be executed in counterparts and each of such counterparts shall for all purposes be deemed an original; and all such counterparts together shall constitute but one and the same instrument.

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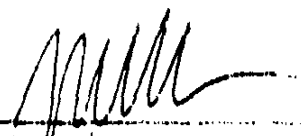
IN WITNESS WHEREOF, Mortgagor and Borrower have caused this Amendment to be duly executed and delivered by their authorized representatives as of the date first above written.

Attest:

Name: _____
Title: _____

MORTGAGOR:

American National Bank and Trust Company of Chicago, as Trustee aforesaid


By  _____
Name: _____
Title: _____

BORROWER:

Arlington Heights Housing Partners Limited Partnership, a Wisconsin limited partnership

By Madison Real Estate Limited Partnership, a Colorado limited partnership its sole general partner

By Madison Investment Properties Corporation, a Wisconsin corporation its sole general partner

By  _____
Michael L. Morey
Vice President

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This Amendment to Mortgage and Security Agreement is consented to on this March 28, 1990 by:

LASALLE NATIONAL BANK, as Trustee and Mortgagee

By *[Signature]*
Vice President

[SEAL]

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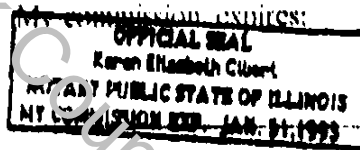
State of Illinois)
) SS
County of Cook)

I, Karen Elizabeth Cibert, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Sarah H. Webb, as Vice President of LaSalle National Bank acting as Trustee under a Indenture Trust Agreement dated June 1, 1985, as amended on March 28, 1990, is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that she signed and delivered said instrument as her own free and voluntary act and as the free and voluntary act of said Bank, as Trustee aforesaid then and there acknowledged that she is custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as her own free and voluntary act and as the free and voluntary act of said Bank, as Trustee aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 28th day of March, 1990.

Karen Elizabeth Cibert

Notary Public



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DELIVER TO
Office

Title Services
30 N. La Salle

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EXHIBIT A

Lots 4 and 5 in Block 26, and Lots 5, 6, 7 and 8 in Block 31, together with the North half of vacated Robinson Street, lying South of and adjoining said Lot 4 in Block 26 and all that part of vacated Robinson Street, lying South of, and adjoining, said Lot 5 in Block 26 and lying North of, and adjoining, said Lot 8 in Block 31 as shown on the "Map of the Town of Dunton, Cook County" Being a Subdivision of the West half of the Southwest quarter of Section 29, Township 42 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois, recorded December 8, 1854 as Document # 55328 in the Recorder's Office of Cook County, Illinois and re-recorded March 4, 1886 as Document # 193762 in the Recorder's Office of Cook County, Illinois.

PARCEL II

Easement appurtenant to the above described Parcel any and all rights obtained pursuant to the terms, covenants and conditions of a certain Declaration and Agreement of Parking Easement dated July 1, 1985 and recorded July 2, 1985 as Document No. 85086751, Cook County, Illinois.***

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Dunton Place,
Arlington Hts IL

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