

SECOND
Regulatory Agreement
Nursing Homes

UNOFFICIAL COPY

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner



209086A

Project Number 071-15021		Mortgagee CAMBRIDGE REALTY CAPITAL LTD. OF ILLINOIS	
Amount of Mortgage Note \$1,941,500.00		Date February 19, 1999	
Mortgage Recorded (State) Illinois	County Cook	Date February 24, 1999	
Book Doc #: 99179562		Page	

This Agreement entered into this 19th day of February, 1999, between ALDEN-NORTHMOOR REHABILITATION AND HEALTH CARE CENTER, INC., an Illinois corporation whose address is 5831 North Northwest Highway, Chicago, Illinois 60631

99179564

9842/0034 27 001 Page 1 of 21
1999-02-24 09:24:06
Cook County Recorder 119.00

(jointly and severally, hereinafter referred to as Lessee) and the undersigned Federal Housing Commissioner, (hereinafter called Commissioner).

In consideration of the consent of the Commissioner to the leasing of the aforesaid project by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but solely as Trustee under Trust Agreement dated as of January 4, 1993, as amended and known as, Trust No. 116513-0A, Mortgagor, and in order to comply with the requirements of the National Housing Act and the Regulations adopted by the Commissioner pursuant thereto, Lessees agree for themselves, their successors, heirs and assigns, that in connection with the mortgaged property and the project operated thereon and so long as the Contract of Mortgage Insurance continues in effect, and during such further period of time as the Commissioner shall be the owner, holder or reinsurer of the mortgage, or during any time the Commissioner is obligated to insure a mortgage on the mortgaged property:

- (1) The lease shall be subject and subordinate to the mortgage securing the note or other obligation endorsed for insurance by the commissioner;
- (2) Lessee shall make payments under lease when due;
- (3) Payments by the lessee to the lessor shall be sufficient to pay all mortgage payments including payments to reserves for taxes, insurance, etc., payments to the Reserve for Replacements, and to take care of necessary maintenance. If at the end of any calendar year, or any fiscal year if the project operates on the basis of a fiscal year, payments under the lease have not been sufficient to take care of the above items, the lessor and lessee upon request in writing from the Commissioner shall renegotiate the amounts due under the lease so that such amounts shall be sufficient to take care of such items; the Commissioner shall be furnished by the lessee, within thirty days after being called upon to do so, with a financial report in form satisfactory to the Commissioner covering the operations of the mortgaged property and of the project;
- (4) The lessee shall not sublease the project or any part thereof without the consent of the Commissioner;
- (5) The lessee shall at all times maintain in full force and effect a license from the State or other licensing authority to operate the project as a nursing home, but the owner shall not be required to maintain such a license;
- (6) Lessee shall maintain in good repair and condition any parts of the project for the maintenance of which lessee is responsible under the terms of the lease;
- (7) Lessee shall not remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
- (8) Lessee shall not use the project for any purpose except the operation of a nursing home;
- (9) If a default is declared by the Commissioner under the provisions of Paragraph 10 of the Regulatory Agreement entered into by the lessor-mortgagor and the Commissioner on the _____ day of February, 1999, a copy of notice of default having been given to the lessee, the lessee will thereafter make all future payments under the lease to the Commissioner;
- (10) The lease may be cancelled upon thirty days written notice by the Commissioner given to the lessor and the lessee for a violation of any of the above provisions unless the violation is corrected to the satisfaction of the Commissioner within said thirty day period.
- (11) The Commissioner must approve any change in or transfer of ownership of the lessee entity, and any change in or transfer of the management operation, or control of the project.

BOX 430

- (12) The lessee shall not reduce or expand, allow to be reduced or expanded, or cause the expansion or reduction of the bed capacity of the project without the consent of the Commissioner. Any change in the bed capacity shall violate this Regulatory Agreement.
- (13) The lessee shall not enter into any management contract involving the project, unless such shall contain a provision that, in the event of default under the Regulatory Agreement as recited in paragraph 9 (above) of this Agreement, the management agreement shall be subject to termination without penalty upon written request of the Commissioner. Upon such request the lessee shall immediately arrange to terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to the Commissioner for continuing proper management of the project.
- (14) The mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by the Commissioner or his duly authorized agents. Lessee shall keep copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by the Commissioner or his/her duly authorized agents.

(15) There shall be full compliance with the provisions of (1) any State or local laws prohibiting discrimination in housing on the basis of race, color, creed, or national origin; and (2) with the Regulations of the Federal Housing Administration providing for non-discrimination 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 the Commissioner to take any corrective action he may deem necessary including, but not limited to, the refusal to consent to a further renewal of the lease between the mortgagor-lessor and the lessee, the rejection of applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the lessee is identified; and further, if the lessee is a corporation or any other type of business association or organization which may fail or refuse to comply with the aforementioned provisions, the Commissioner shall have a similar right of corrective action (1) with respect to any individuals who are officers, directors, trustees, managers, partners, associates or principal stockholders of the lessee; and (2) with respect to any other type of business association, or organization with which the officers, directors, trustees, managers, partners, associates or principal stockholders of the lessee may be identified.

For a description of the mortgaged property, see Exhibit A attached hereto and made a part hereof. A copy of the Lease is attached hereto and made a part hereof as Exhibit B.

**Instructions to Closing Attorney
Regulatory Agreement—form HUD-92466-NHL
Nursing Homes—Section 232**

This Regulatory Agreement must be executed by the Lessee and the Commissioner and recorded before the Note is endorsed for insurance.

Note that there is space left on the back of the printed form for proper execution of the instrument.

The execution by the Commissioner and by the Lessee must be in accordance with the requirements of the jurisdiction where the project is located and must permit the instrument to be recorded.

The Agreement is to be executed in the name of the Commissioner. It will be signed for the Commissioner by the Field Office Manager or authorized agent who endorses the Note for insurance.

Recording must be at the expense of the mortgagor-owner or lessee.

Sufficient space is left on the back for the insertion of any necessary additional provisions. Any changes in the Agreement and any substantial additions shall receive the prior approval of the Assistant Secretary for Housing.

A copy of the Commissioner-approved lease shall be attached to this Regulatory Agreement. If the lease has already been filed or recorded, re-recording will be unnecessary, and a copy of the recorded lease (with recording data) will be attached following recording of the form HUD-92466-NHL.

The Agreement must be executed by the Lessee prior to execution by the Commissioner.

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date hereinabove written.

LESSEE:

**ALDEN-NORTHMOOR
REHABILITATION AND HEALTH
CARE CENTER, INC.,** an Illinois
corporation

By: *Joan Carl*
Name: Joan Carl
Its: Secretary

COMMISSIONER:

**FEDERAL HOUSING
COMMISSIONER**

By: *Manjinder*
Name: Director of Operations
Its Authorized Agent

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 23rd day of February, 1999, before me appeared Mary Anderson who, being duly sworn, did say that he is the duly appointed Authorized Agent and the person who executed the foregoing instrument by virtue of the authority vested in him and acknowledged the same to be his free and voluntary act and deed as Authorized Agent for and on behalf of the FEDERAL HOUSING COMMISSIONER.

In Testimony Hereof, I have hereunto set my hand and affixed my Notarial Seal on the day and year last above written.

Deborah Monroe
Notary Public

My Commission Expires:

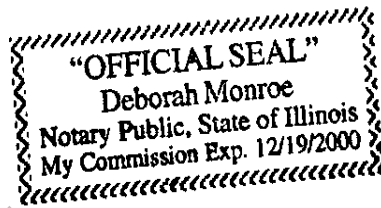


EXHIBIT A

LEGAL DESCRIPTION

LOT 36 (EXCEPT THE SOUTHEASTERLY 5 FEET THEREOF) AND ALL OF LOTS 37 TO 48 IN BLOCK 8 IN WILSON'S RESUBDIVISION OF BLOCKS 85, 86, 92, 93 AND 94 IN NORWOOD PARK, BEING A PART OF SECTION 6, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 5831 North Northwest Highway, Chicago, Illinois 60631

Permanent Real Estate Index Numbers: 13-06-409-017
13-06-409-018
3-06-409-019
13-06-409-020
13-06-409-021
13-06-409-022
13-06-409-023
13-06-409-024
13-06-409-025

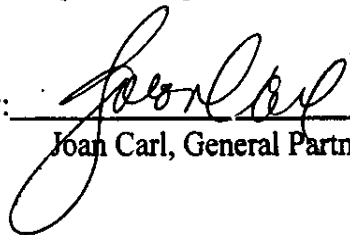
This Document Prepared By
and After Recording Shall Be
Returned To:

Elizabeth H. Friedgut, Esq.
Rudnick & Wolfe
203 North LaSalle Street
Chicago, Illinois 60601

**ALDEN-NORTHMOOR ASSOCIATES
LIMITED PARTNERSHIP**, an Illinois
limited partnership

February 11, 1999

By: _____



Joan Carl, General Partner

BORROWER'S ADDRESS:

4200 West Peterson Avenue
Chicago, Illinois 60646

Property of Cook County Clerk's Office

LEASE

THIS LEASE entered into the 1st day of November, 1996, between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 4, 1993 AND KNOWN AS TRUST NO. 116513-04 (hereinafter called "Lessor") and ALDEN-NORTHMOOR REHABILITATION AND HEALTH CARE CENTER, INC., a corporation created and existing under the laws of the State of Illinois (hereinafter called "Lessee"),

WITNESSETH:

LESSOR for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the Lessee does hereby demise and lease unto the Lessee the following described property and premises: Legal description and common address attached hereto as Exhibit A, to be used for a nursing home, together with Lessor's easements and appurtenances in adjoining and adjacent land, highways, roads, streets, lanes, whether public or private, reasonably required for the installation, maintenance, operation and service of sewer, water, gas, power and other utility lines and for driveways and approaches to and from abutting highways for the use and benefit of the above-described parcel of real estate.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties do hereby agree as follows:

1. DESCRIPTION. Lessor is the owner of the property at 5831 N. Northwest Highway, Chicago, Illinois 60631 consisting of a 198 bed Rehabilitation and Nursing Care facility.

2. TERM. The term of this Lease shall commence on the 1st day of November, 1996, and shall end on the 31st day of October, 2036, unless terminated sooner due to the operation of any conditions in this Lease.

3. BASE RENT.

A. Lessee shall pay to Lessor as base rent for the premises in advance upon the first day of each and every month as follows:

- 1. From first day of initial endorsement with the United States Department of Housing and Urban Development and up to first day of commencement of Operations (approximately 2 years) Zero Rental
- 2. First and Second Year of actual Operations \$100,000.00/month
- 3. Third Year \$107,333.33/month
- 4. Fourth Year \$116,666.66/month
- 5. Fifth Year \$118,750.00/month
- 6. Sixth Year \$122,916.66/month
- 7. Seventh Year \$127,083/333/month
- 8. Eighth Year \$137,500.00/month
- 9. Commencing with the ninth year subsequent to the commencement of operations, the base rent shall be negotiated to a level as agreed upon by Lessee and Lessor.

B. Rental Payments Shall Include, But Are Not Limited To:

- a. Mortgage Payment
- b. Mortgage Insurance Premium
- c. Replacement Reserve
- d. General Insurance

C. But in no event shall the base rent in any year be less than an amount sufficient to pay all mortgage payments including payments to reserves for replacements, etc., and to take care of necessary maintenance required to be performed by Lessor.

D. All rent shall be payable at the Office of Alden Management Services, Inc. 4200 West Peterson Avenue, Chicago, Illinois 60646, or wherever Lessor shall from time to time direct.

(1) See paragraph 5, ESCROWS, for additional rent.

4. FUEL, UTILITY SERVICES. Lessee hereby agrees to pay from operating income for all fuel, electricity, heat or power, gas and water, or any other utility charges incurred upon the demised premises.

5. ESCROWS. Lessee further agrees to deposit to escrow accounts as directed by Lessor any additional sums required for payment of Real Estate Taxes and premium for property insurance. Lessor agrees to promptly deposit said escrows with Mortgage Servicing Agent.

6. COMPLIANCE WITH LAW. Lessee covenants that in the use and occupation of the demised premises and the buildings structures, fixtures and improvements thereon, and the sidewalks adjacent thereto, together with vaults, streets, alleys and river banks, Lessee will comply with all authorities in any manner affecting the demised premises or any building, structures, fixtures and improvements thereon or the use thereof. Lessee further agrees that it will not permit any unlawful occupation, business or trade to be conducted on said premises, or any use to be made thereof contrary to any law, ordinance or regulation as aforesaid with respect thereto.

7. **REPAIRS, ALTERATIONS AND ADDITIONS.** The Lessee shall be further obliged to pay any expense from the operating income for repairing any improvements upon the demised premises, including scavenger, elevator maintenance, extermination and landscaping, and Lessee will, at its own expense, make all repairs and replacements necessary to maintain the same in a good, tenable and wholesome condition, complying with all applicable laws, regulations, ordinances and requirements of all authorities having jurisdiction. Lessor, however, is not hereby relieved of responsibility of maintenance assumed by it pursuant to its mortgage and Regulatory Agreement. Lessee shall pay any costs relative to repair or replacement of furniture and fixtures from the date of this Agreement, and Lessor agrees to allow Lessee use of any replacement reserves for same upon proper notice. Lessee shall not remodel, reconstruct, add to, or demolish any part of the mortgaged property, or subtract from any real estate or personal property.

8. **OTHER OPERATING EXPENSES.** Lessee agrees to pay from the Operating Income all other operational expenses of the Nursing Home.

9. **SURRENDER.** Lessee agrees that, upon termination by lapse of time or otherwise of the term hereby created, or any extension thereof, it will deliver and surrender up to the Lessor said premises in good condition and repair; any damage, deterioration or destruction resulting from ordinary wear and tear, loss by fire, casualty and causes beyond Lessee's control, are excepted.

10. **LIENS.** Lessee will not permit any mechanics; laborers', or materialmen's liens to stand against the demised premises for any labor or material furnished to Lessee or claimed to have been furnished to Lessee in connection with work of any character performed or claimed to have been performed on said premises by or at the direction or sufferance of Lessee, but nothing herein contained shall in any way or anywise prejudice the rights of Lessee to contest to final judgment or decree any such lien. In default of Lessee procuring the discharge of any such lien or contesting such lien as above provided, by bond or any other method, Lessor may without further notice procure the discharge thereof by bonding, payment or otherwise, and all costs and expenses to which Lessor may be put in obtaining such discharge shall become due as additional rent upon the next rent day.

11. **INSURANCE.** During the term hereof, Lessee at its own cost and expense shall:

A. Keep all buildings and improvements and equipment on, in or appurtenant to the premises, including all alterations, additions, and improvements insured against loss or damage by fire and all standard extended coverage and flood and water damage.

B. Provide and keep in force the public liability, and boiler insurance policies protecting Lessor and the Lessee against any and all liability and in the amounts of not less than \$500,000.00 in respect to any one accident or disaster and in the amount of not less than \$500,000.00 in respect to injuries to any one person;

C. All premiums and charges for all of said policies shall be paid by Lessee and if Lessee shall fail to make any such payment when due, or carry any such policy, Lessor may, but shall not be obligated to, make such payment or carry such policy, and the amount paid by Lessor, with interest thereof, shall be repaid to Lessor, by Lessee on demand, and all such amounts so repayable together with such interest, shall be considered as an addition to rent payable hereunder, for the collection of which Lessor shall have all of the remedies provided in any other paragraph herein, or by law provided for the collection of rent. Payment by Lessor of any such premium or the carrying by Lessor of any such policy shall not be deemed to waive or release the default of Lessee with respect thereto;

D. Ten (10) days prior to the expiration of such policy, Lessee shall deliver a binder renewing each such policy, which binder shall provide that at least ten (10) days' written notice of any change in or cancellation thereof shall be given by the insurance company to Lessor. Lessee shall promptly pay the premium for renewal insurance and deliver to Lessor the original policy or certificate thereof and duplicate receipt evidencing payment thereof:

E. Lessee shall not violate or permit to be violated any of the conditions or provisions of any such policy, and Lessee shall so perform and satisfy the requirements of the companies writing such policies that at all times companies of

good standing satisfactory to Lessor shall be willing to write and/or continue such insurance.

F. Lessee and Lessor shall cooperate with each other in connection with the collection of any insurance monies that may be due in the event of loss and Lessor shall execute and deliver to Lessee such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance monies;

G. All policies specified in this paragraph shall cover Lessee, Lessor, and with respect to subparagraph (a) all mortgages of Lessor as their interests may appear.

12. **NO ABATEMENT OF RENT.** The partial destruction of any building on the premises, by fire, elements, or other causes shall not in any manner affect this Lease or the rights and obligations of Lessee thereunder and the rent shall not abate, diminish or cease during reconstruction.

13. **DAMAGE OR DESTRUCTION.** If the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the Holder of the Mortgage Note, and, at its option, may be applied to the debt or released for the repairing or rebuilding of the premises.

14. **ALCHOLIC BEVERAGES.** Lessee shall not sell any alcoholic liquors or beverages on said premises or permit any person who occupies the same to do so without written consent of Lessor.

15. **CONDEMNATION.** If the demised premises shall be condemned or taken in its entirety for a public or quasi-public use, all awards or compensation therefore shall be paid to and become the property of the Holder of the Mortgage Note, and this Lease and all obligations hereunder shall terminate as of the date of taking. If only a portion of the demised premises shall be condemned or taken for a public or quasi-public use, any and all awards or compensation arising from such condemnation or taking shall be paid to the Holder of the Mortgage Note, and this Lease shall continue without modification, unless and except that if so much or such portion of the premises be taken that the taking shall materially interfere with the efficient operation of its business by Lessee on the premises, the judgment of the Lessee as to the materiality of such interference being conclusive, then at any time within sixty (60) days after taking of such portion of the premises, Lessee may terminate this Lease by serving upon the Lessor written notice of its intention to do so. In the event this Lease is so terminated, then any and all awards or compensation arising from such condemnation or taking shall be paid to and become the sole property of the Holder of the Mortgage Note and all obligations hereunder shall cease as of the date of termination. Nothing contained herein shall be construed to preclude the Lessee from prosecuting any claim directly against the condemning authority in such condemnation proceedings for loss of business, or depreciation to, damage to, or cost of removal

of, or for the value of stock, trade fixtures, furniture and other personal property belonging to the Lessee; provided, however, that no such claim shall diminish or otherwise adversely affect the Lessor's awards.

16. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign, sublease, pledge or mortgage this Lease or its rights hereunder without first obtaining the prior written consent of Lessor, and shall remain liable for the payment of all rent required to be paid hereunder and for the performance of all terms, covenants and conditions herein undertaken by Lessee. Lessee shall not have the right to sublet the operation of or leased premises or any portion thereof, at any time during the term of this Lease without first obtaining the written consent of the Lessor.

17. **HOLDING OVER.** In the event Lessee continues to occupy the premises after the last day of the term hereby created, or after the last day of any extension of said term, and the Lessor elects to accept rent thereafter, a tenancy from month to month only shall be created and not for any longer period without the written concurrence of Lessee.

18. **ABANDONMENT AND RELETTING.** If Lessee shall abandon or vacate said premises, the same may be re-let by Lessor for such rent, and upon such terms as to him may seem fit; and if a sufficient sum shall not be thus realized monthly after paying the expense of such re-letting and collecting, to satisfy the rent hereby reserved, Lessee agrees to satisfy and pay all deficiencies during each month of the remaining period of this Lease.

19. SUBROGATION WAIVER. Lessor hereby waives any and all claims against Lessee, its assignees or sub-lessee for damage or destruction of any improvements on the leased premises (whether or not resulting from the fault or negligence of lessee, its assignee or sub-lessee or their agents or employees) which improvements are to be covered by said insurance by Lessee and the parties agrees that said certificate of insurance will recognize this waiver of Lessor by a good and sufficient waiver of subrogation provision, provided, however, that nothing herein shall be construed as waiving Lessor's right to any insurance proceeds under policies provided by Lessee.

20. RE-ENTRY, ETC. If default is made in the payment of the above rent, or any part thereof, or in any of the covenants herein contained, to be kept by the Lessee, and such default shall continue for a period of sixty (60) days, it shall be lawful for Lessor at any time, at his election and without notice to declare said term ended and to re-enter said premises or any part thereof, with or without process of law, and to remove Lessee or any persons occupying the same, without prejudice to any remedies which might otherwise be used for arrears of rent, and Lessor shall have a valid and first lien upon all personal property which Lessee owns or may hereafter acquire or have any interest in, whether exempt by law or not, as security for payment of the rent herein reserved.

21. PAYMENT OF FEES. Lessee will pay and discharge all reasonable costs, attorneys' fees and expenses that may be incurred by Lessor in enforcing the covenants and agreements of this Lease; and this Lease and all covenants and agreements herein contained shall

be binding upon, apply and inure to the parties hereto and their respective heirs, executors, successors, administrators, and assigns of all parties to this Lease.

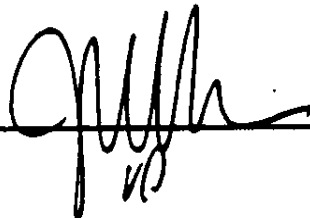
22. **LESSOR'S TITLE.** Lessor's title is, and always shall be, paramount to the title and interest of Lessee, and nothing herein contained shall empower the Lessee to do any act which can or shall encumber the title of the Lessor. Lessee agrees, on reasonable request from Lessor, to subordinate its interest in this Lease to any mortgage which may now or hereafter encumber the demised premises. If Lessee fails to execute such interest of subordination within a reasonable time, Lessor is hereby granted a limited Power of Attorney to execute same in name of Lessee. This Lease (and Lessee's interest in all personal property) shall be subject and subordinate to the Mortgage securing the Note or other obligations endorsed for insurance. Nothing contained herein shall relieve the Lessor of any obligations under any Mortgage securing a Note.

23. **DISCLOSURE.** Lessee shall deliver to Lessor at the end of each fiscal year, or more often as requested by Lessor, the books of its operations.

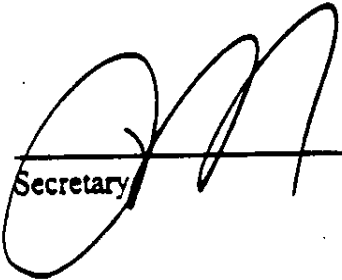
24. **LICENSE.** Lessee at all times shall maintain in force and effect a license from the State of Illinois, to operating a nursing home, and shall at all times employ a duly qualified and licensed nursing home administrator to operate the Home.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date hereinabove set forth.

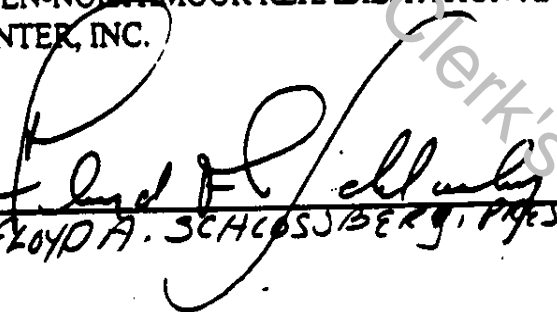
AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee under Trust Number 116513-04

By:  _____

ATTEST:

 _____
Asst Secretary

ALDEN-NORTHMOOR REHABILITATION AND HEALTH CARE CENTER, INC.

By:  _____
FLOYD A. SCHLOSSBERG, PRES

ATTEST:

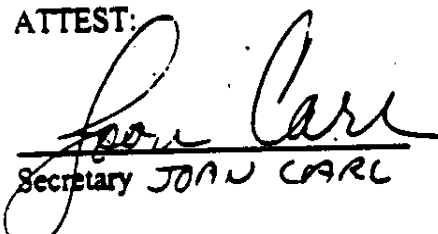
 _____
Secretary JOAN CARL

EXHIBIT A

Legal Description of Property:

LOT 36 (EXCEPT THE SOUTHEASTERLY 5 FEET THEREOF) AND ALL OF LOTS 37 TO 48 IN BLOCK 8 IN WILSON'S RESUBDIVISION OF BLOCKS 85, 86, 92, 93 AND 94 IN NORWOOD PARK, BEING A PART OF SECTION 6, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PERMANENT INDEX NUMBERS: 13-06-409-017
13-06-409-018
13-06-409-019
13-06-409-020
13-06-409-021
13-06-409-022
13-06-409-023
13-06-409-024
13-06-409-025

County of Cook Clerk's Office

EXCULPATORY PROVISIONS

**ALDEN NORTHMOOR NURSING CENTER
FEDERAL HOUSING ADMINISTRATION
PROJECT NO. 071-43146**

This document is executed by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 4, 1964 AND KNOWN AS TRUST NO. 116513-04, in the exercise of the power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing in this document contained shall be construed as creating any monetary liability on said Trustee personally, to pay any indebtedness occurring thereunder, or any personal monetary liability on said Trustee with respect to the performance of any warranty or covenant, either expressed or implied, in said document (all such personal liability, if any, being expressly waived by the parties hereto and by every person now or hereafter claiming any right or security thereunder) except that the said Trustee shall be liable for funds or property of the project coming into its hand, which by the Regulatory Agreement Housing for Multifamily Housing Projects, it is not entitled to retain.