

ORDINANCE NO. 7636

**AN ORDINANCE APPROVING A STORMWATER
DETENTION/RETENTION VARIATION FEE ESCROW AGREEMENT
(415 EAST NORTH AVENUE)**

WHEREAS, pursuant to Ordinance No. 7159, adopted December 17, 2015, entitled, "An Ordinance Amending Ordinance No. 5211, Adopted November 7, 2002, in Regard to Granting a Variation From the Provisions of Chapter 151, Section 151.55 of the Lombard Village Code in Regard to the Stormwater Detention/Retention Basin Requirement," (the "Ordinance"), and the Stormwater Detention Variance Fee Lien (the "Variance Fee Lien") relative thereto, both recorded on March 3, 2016 as document number R2016-020102 with the DuPage County Recorder's Office, the issuance of building permits relative to the property commonly known as 415 East North Avenue was made subject to certain conditions; and

WHEREAS, the current owners of 415 East North Avenue would like to move forward with applying for, and obtaining, building permits relative to certain improvements to 415 East North Avenue, without full compliance with the provisions of the aforementioned Ordinance and Variance Fee Lien, and are prepared to make a monetary deposit of \$14,408.18, in escrow with the Village, to secure full compliance with the provisions of the Ordinance and the Variance Fee Lien, with said compliance to occur on or before December 31, 2020, so as to cause the Village to process said building permits application without full compliance with the provisions of the Ordinance and the Variance Fee Lien; and

WHEREAS, the owners of 415 East North Avenue have proposed a Stormwater Detention/Retention Variation Fee Escrow Agreement (415 East North Avenue), in relation to the aforementioned escrow deposit, in the form as attached hereto as Exhibit 1

and made part hereof (the "Escrow Agreement"); and

WHEREAS, the President and Board of Trustees find said Escrow Agreement to be acceptable, and in the best interests of the Village;

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That the Escrow Agreement is hereby approved, and the Village President and Village Clerk are hereby authorized and directed to execute same on behalf of the Village.

SECTION 2: That this Ordinance shall be in full force and effect from and after its passage and approval, as required by law.

Passed on first reading this ____ day of _____, 2019.

First reading waived by action of the Board of Trustees this 7th day of March, 2019.

Passed on second reading this 7th day of March, 2019, pursuant to a roll call vote as follows:

AYES: Trustee Whittington, Fugiel, Foltyniewicz, Johnston, Pike and Ware

NAYS: None

ABSENT: None

APPROVED by me this 7th day of March, 2019.


Keith Giagnorio, Village President

ATTEST:


Sharon Kuderna, Village Clerk

Exhibit 1

**Stormwater Detention/Retention Variation Fee Escrow Agreement
(415 East North Avenue)**

(attached)

**STORMWATER DETENTION/RETENTION
VARIATION FEE ESCROW AGREEMENT
(415 EAST NORTH AVENUE)**

This STORMWATER DETENTION/RETENTION VARIATION FEE ESCROW AGREEMENT (415 EAST NORTH AVENUE) (the "Agreement") is made and entered into as of this 25th day of Feb., 2019, by and between LOMBARD REAL ESTATE, LLC and LOMBARD HOTELS GROUP, LLC of 191 Ashfield Court, Bloomingdale, Illinois 60108 (the "Companies"), and the VILLAGE OF LOMBARD, Illinois (the "Village").

RECITALS

- A. The Companies are the owners of the property commonly known as 415 East North Avenue, Lombard, Illinois, as legally described on Exhibit A attached hereto and made part hereof (the "Subject Property"), having acquired the Subject Property during 2018.
- B. Pursuant to Village Ordinance No. 7159, adopted December 17, 2015, entitled, "An Ordinance Amending Ordinance No. 5211, Adopted November 7, 2002, in Regard to the Granting of a Variation From the Provisions of Chapter 151, Section 151.55 of the Lombard Village Code in regard to the Stormwater Detention/Retention Basin Requirement" (the "Ordinance") and the Stormwater Detention Variance Fee Lien (the "Variation Fee Lien"), both recorded on March 3, 2016 as document number R2016-020102, the Subject Property was made subject to a lien to guarantee that either:
- (i) the driveway pavement on a portion of the Subject Property and at least 4½ inches of base stone shall be removed, and the area restored with 6 inches of topsoil and seed, so as to eliminate the need for the variance; or
 - (ii) proper site stormwater runoff storage requirements for the Subject Property are provided, so as to eliminate the need for the variance; or
 - (iii) a variance fee of \$14,408.18 (the "Variation Fee") be paid to the Village by the owner of the Subject Property, which shall be a non-refundable deposit into the Village's Salt Creek Watershed Improvements Account;

on or before December 31, 2020, or no further building or other permits will be issued by the Village relative to the Subject Property, or in relation to any other property served by the structure (the paved driveway) on the Subject Property (the aforementioned requirements of the Ordinance and the Variation Fee Lien being hereinafter referred to as the "Variation Fee Guarantee").

- C. The Variation Fee Guarantee also provided that, notwithstanding what is set forth in B. above, a sale of the Subject Property, prior to December 31, 2020, shall require that one of the actions set forth in subsections B.(i), (ii) or (iii) above take place, before any building or other permits are issued by the Village relative to the Subject Property, or in relation to any other property served by the structure (the paved driveway) on the Subject Property.

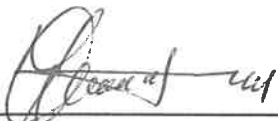
- D. The Companies desire to go forward with their plans to improve the Subject Property and to apply for and obtain building permits to commence work in relation to said improvements.
- E. Pursuant to the provisions of the Variation Fee Guarantee, as the Companies acquired title to the Subject Property subsequent to the approval and recording of the Variation Fee Lien, the Companies cannot be issued building permits to commence work on the improvements on the Subject Property until such time as one of the actions set forth in subsections B.(i), (ii) or (iii) above take place.
- F. The Companies have offered to deposit the Variation Fee with the Village, in order to cause the issuance of the building permits relative to the proposed improvements on the Subject Property, but would like the option of having the Variation Fee returned to them in the event that one of the actions set forth in subsections B.(i) or (ii) above (the "Required Work") occurs on or before December 31, 2020.
- G. The Companies and the Village desire to reach an understanding, regarding the ability for the Village to issue said building permits to the Companies while at the same time addressing the requirements of the Variation Fee Guarantee, and, therefore, have agreed as set forth below.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which the Companies and the Village hereby acknowledge, the Companies and the Village agree as follows:

1. The Recitals, as set forth above, are hereby incorporated herein by reference.
2. The Companies, at the time of the building permit application, relative to the improvements on the Subject Property, shall deposit with the Village the sum of \$14,408.18, to be held in escrow by the Village for the benefit of the Companies and the Village (the "Escrow Deposit").
3. The Escrow Deposit will not earn any interest.
4. That, upon receipt of the Escrow Deposit, the Village shall process the aforementioned building permit application in accordance with the requirements of the Lombard Village Code.
5. The Required Work shall be completed by the Companies on or before December 31, 2020.
6. If said Required Work is completed by the Companies, in accordance with the requirements of the Lombard Village Code and the specifications of the Variation Fee Guarantee, on or before December 31, 2020, then the Companies shall be entitled to a full refund of the Escrow Deposit, within thirty (30) days of said Required Work being completed.
7. In the event the Companies fail to complete the Required Work on or before December 31, 2020, said Escrow Deposit will become non-refundable and shall be transferred by the Village to the Village's Salt Creek Watershed Improvements Account.


This Agreement shall be in full force and effect from and after the date set forth above, which shall be the date that this Agreement is approved by the Lombard Village Board.

Lombard Real Estate, LLC

By: 
Name: MOHAMMAD KARIM
Title: Manager

Date: 2-25-19

Lombard Hotels Group, LLC

By: 
Name: MOHAMMAD KARIM
Title: Manager

Date: 2-25-19

Village of Lombard

By: 
Keith Giagnorio
Village President

Date: March 7, 2019

Attest: 
Sharon Kuderna
Village Clerk

Date: March 7, 2019