

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

_____ Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
 X Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: September 21, 2010 (COW)(B of T) October 7, 2010

TITLE: A Motion to Ratify the Approval and Execution of a Release of Security Instruments for the Clover Creek Apartment Complex

SUBMITTED BY: Timothy Sexton, Director of Finance

BACKGROUND/POLICY IMPLICATIONS:

The Village was involved with the issuance of Multifamily Housing Refunding Revenue Bonds, Series 2000 for the Clover Creek Apartment Complex, and this apartment complex has now been sold. At the August 19, 2010 Village Board meeting, the Board ratified a Regulatory Agreement Release. Now that the complex has been sold and the bonds have been paid in full, the Village had to sign a Release of Security Instruments.

The Village Attorney recommended that the Village Board ratify the approval and execution of this Release.

Review (as necessary):

Village Attorney X _____ Date 9/23/10
Finance Director X *Timothy Sexton* _____ Date 9/23/10
Village Manager X *David A. Hulseberg* _____ Date 9/24/10

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

Prepared by and Return to:
Kendall E. Brook, Esq.
Bradley & Associates
1270 Soldiers Field Road
Boston, MA 02135

RELEASE OF SECURITY INSTRUMENTS

KNOW ALL MEN BY THESE PRESENTS: The undersigned, **VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS** and **FANNIE MAE, A FEDERALLY CHARTERED AND STOCKHOLDER OWNED CORPORATION**, (collectively, the "Mortgagee"), are the owners and holders of those certain instruments given by **INTERCONTINENTAL OLYMPIC CLOVER CREEK, LLC**, a Delaware limited liability company, as successor in interest to TVO Clover Creek LLC ("Mortgagor"), to Mortgagee described as follows:

1. Multifamily Mortgage, Assignment of Rents and Security Agreement (Illinois) dated as of December 1, 2000 and recorded December 20, 2000 as document R2000-198934, made by TVO Clover Creek LLC to Mortgagee, to secure an indebtedness in the amount of \$26,770,000.00, and the terms and conditions thereof (the "Mortgage"),

Assignment and Assumption and Release Agreement and Amendment to Multifamily Mortgage, Assignment of Rents and Security Agreement recorded June 29, 2004 as document R2004-174649, by and among TVO Clover Creek LLC, David Vandenburg, Mortgagor, John Goodman, Stanley J. Harrelson and Fannie Mae (the "Mortgage Assignment");

2. Assignment and Intercreditor Agreement recorded December 20, 2000 as document R2000-198935, among the Mortgagee and LaSalle Bank National Association (the "Assignment");
3. Security interest of Village of Lombard, DuPage County, Illinois, secured party, in certain described chattels on the land, as disclosed by Financing Statement naming TVO Clover Creek LLC, as debtor, and filed December 20, 2000 as number 2000U-2319 and recorded as document R2000-198938,

Assignment of debtor filed June 29, 2004 as number 2004U-0564 and recorded as document R2004-174651 from TVO Clover Creek LLC to Mortgagor,

Continuation filed July 14, 2005 as number 2005U-0570 and recorded as document R2005-150459 (collectively, the "Lombard UCC Instruments"); and

4. Security interest of Fannie Mae, secured party, in certain described chattels on the land, as disclosed by Financing Statement naming TVO Clover Creek LLC, as debtor, filed December 20, 2000 as number 2000U-2320 and recorded as document R2000-198939,

Assignment of debtor filed June 29, 2004 as number 2004U-0565 and recorded as document R2004-174652 from TVO Clover Creek LLC to Mortgagor,

Continuation filed July 14, 2005 as number 2005U-0576 and recorded as document R2005-152253 (collectively, the "Fannie Mae UCC Instruments").

NOW, THEREFORE, the undersigned, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, does hereby forever release, exonerate, and discharge from the lien, operation, force, and effect of the Mortgage, the Mortgage Assignment, the Assignment, the Lombard UCC Instruments and the Fannie Mae UCC Instruments the real property encumbered thereby and located at 801, 810, 820, 830, 840, 850, 860, 870, 880, and 890 Foxworth Boulevard, Lombard, DuPage County, Illinois, as more clearly described in **Exhibit "A"** attached hereto.

[SIGNATURE PAGES ATTACHED HERETO]

IN WITNESS WHEREOF, the above-named owners and holders of the above-described instruments have caused these presents to be executed in their name by their proper officers, to be sealed by their corporate seals on the dates set forth in their notary acknowledgement below.

VILLAGE OF LOMBARD, DUPAGE COUNTY,
ILLINOIS

By: *William J. Mueller*
Printed Name: William J. Mueller
Title: Village President

Attest: *Timothy Sexton*
Printed Name: Timothy Sexton
Title: Director of Finance

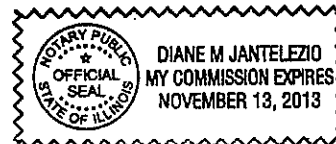
STATE OF ILLINOIS)
) SS:
COUNTY OF DuPAGE)

Before me, the undersigned, a Notary Public within and for the County and State last aforesaid, on this the 21st day of ~~August~~, 2010, personally appeared William Mueller who acknowledged himself to be the ~~President~~ ^{September} of the Village of Lombard, DuPage County, Illinois, a political subdivision and municipality of the State of Illinois, and that he, as such ~~President~~, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation, by himself as the President.

Witness my hand and Notarial Seal this 21st day of ~~August~~ ^{September}, 2010.

Diane M. Jantelezio
(signature)

Printed: Diane M. Jantelezio (Notary Public)
My Commission expires: 11/13/13
My County of Residence: DuPage



[COUNTERPART SIGNATURE PAGE TO RELEASE OF SECURITY INSTRUMENTS]

EXHIBIT "A"

Legal Description (Clover Creek Apartments)

Parcel 1

That part of the Southwest fractional $\frac{1}{4}$ of Section 19 and the Northwest fractional $\frac{1}{4}$ of Section 30, Township 39 North, Range 11, East of the Third Principal Meridian, described as follows:

Beginning at the Southeasterly corner of Lot 1 in Foxworth of Lombard Unit One, thence North 14 degrees 14 minutes 14 seconds West, 154.89 feet to the Southerly line of Foxworth Boulevard as dedicated; thence (the following four courses being along the right-of-way of said Foxworth Boulevard) Northeasterly along a curved line, convex to the Southeast, having a radius of 473.00 feet, a distance of 70.35 feet; thence North 57 degrees 24 minutes 01 seconds East, 230.00 feet; thence Northeasterly along a curved line, convex to the Northwest, having a radius of 267.00 feet, a distance of 44.40 feet; thence North 66 degrees 55 minutes 39 seconds East, 99.33 feet to the Westerly right-of-way line of F.A. Route 61 (as recorded by document R68-59201); thence (the following three courses being along said right-of-way line) South 21 degrees 54 minutes 45 seconds East, 35.85 feet; thence South 32 degrees 55 minutes 06 seconds East, 192.98 feet; thence South 19 degrees 14 minutes 53 seconds East, 182.27 feet to the North line of Units 8 and 9 in Butterfield Subdivision; thence North 89 degrees 58 minutes 07 seconds West, along said line, 526.49 feet to the point of beginning, in DuPage County, Illinois;

Parcel 2:

That part of the Southeast $\frac{1}{4}$ of Section 24, Township 39 North, Range 10 and the Southwest Fractional $\frac{1}{4}$ of Section 19, Township 39 north, Range 11, East of the Third Principal Meridian, described as follows:

Beginning at the Intersection of the Westerly right-of-way line of said F.A. Route 61 and the Northerly line of said Foxworth Boulevard and running thence (the following four courses being the Northerly line of said Foxworth Boulevard) South 66 degrees 55 minutes 39 seconds West, 100.67 feet; thence Southwesterly along a curved line, convex to the Northwest, having a radius of 333.00 feet, a distance of 55.37 feet, thence South 57 degrees 24 minutes 01 seconds West, 230.00 feet; thence Southwesterly along a curved line, convex to the Southeast, having a radius of 407.00 feet, a distance of 200.76 feet to the Southeasterly corner of Lot 9 in Foxworth of Lombard Unit One; thence (the following twelve courses being along the Northeasterly boundary of said Unit One) North 11 degrees 16 minutes 46 seconds West, 111.03 feet; thence north 50 degrees 43 minutes 41 seconds West, 110.80 feet; thence South 88 degrees 06 minutes 05 seconds West, 110.80 feet; thence South 48 degrees 39 minutes 10 seconds West, 25.03 feet; thence North 35 degrees 18 minutes 43 seconds West, 171.35 feet; thence North 24 degrees 58 minutes 50 seconds West, 255.34 feet; thence North 19 degrees 58 minutes 43 seconds West, 18.90 feet; thence North 0 degrees 52 minutes 51 seconds East, 110.80 feet; thence North 40 degrees 17 minutes 23 seconds West, 110.80 feet; thence North 81 degrees 27 minutes 37 seconds West, 110.80 feet; thence South 57 degrees 22 minutes 09 seconds West, 110.80 feet; thence South 19 degrees 45 minutes 28 seconds West, 7.02 feet to the Northeasterly corner of Lot 156 in Foxworth of Lombard Unit Two; thence (the following three courses being along the Northeasterly boundary of said Unit Two) North 70 degrees 14 minutes 32 seconds West, 180.00 feet; thence North 66 degrees 50 minutes 23 seconds West, 116.17 feet; thence North 52 degrees 05 minutes 39 seconds West, 114.22 feet; thence North 20 degrees 48 minutes 08 seconds East, 48.97 feet; thence North 11 degrees 54 minutes 11 seconds West, 125.22 feet; thence North 54 degrees 27 minutes 56 seconds West, 125.22 feet; thence South 83 degrees 41 minutes 54 seconds West, 150.33 feet; thence Northeasterly along a curved line, convex to the Northwest, having a radius of 300.00 feet, a distance of 242.94 feet; thence North 39 degrees 41 minutes 36 seconds East, 571.99 feet to the said Westerly right-of-way line of F.A. Route 61; thence (the next five courses being along said right-of-way line) Southeasterly along a curved line, convex to the Southwest, having a radius of 4,179.41 feet, a distance of 310.04 feet; thence South 45 degrees 38 minutes 28 seconds East, 205.71 feet; thence South 54 degrees 38 minutes 59 seconds East, 480.67 feet; thence Southeasterly along a curved line, convex to the Northeast having a radius of 2,704.79 feet, a distance of 944.15 feet; thence South 21 degrees 54 minutes 45 seconds East, 180.90 feet to the point of beginning, in DuPage County, Illinois.

P.I.N. 06-19-301-006; 06-19-302-007; and 05-24-402-024

Prepared by and Return to:
Kendall E. Brook, Esq.
Bradley & Associates
1270 Soldiers Field Road
Boston, MA 02135

RELEASE OF SECURITY INSTRUMENTS

KNOW ALL MEN BY THESE PRESENTS: The undersigned, **FANNIE MAE, A FEDERALLY CHARTERED AND STOCKHOLDER OWNED CORPORATION**, as successor-in-interest to Red Mortgage Capital, Inc. (the "Mortgagee"), is the owner and holder of those certain instruments given by **INTERCONTINENTAL OLYMPIC CLOVER CREEK, LLC**, a Delaware limited liability company, as successor in interest to TVO Clover Creek LLC (the "Mortgagor"), to Mortgagee described as follows:

1. Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of December 13, 2000 and recorded December 20, 2000 as document R2000-198936, made by TVO Clover Creek LLC to Red Mortgage Capital, Inc. to secure an indebtedness in the amount of \$7,305,000.00, and the terms and conditions thereof (the "Mortgage");

Assignment of Mortgage recorded December 20, 2000 as document R2000-198937 made by Red Mortgage Capital, Inc. to Mortgagee (the "Assignment");

Amendment to Multifamily Mortgage, Assignment of Rents and Security Agreement recorded January 2, 2001 as document R2001-000549 (the "Mortgage Amendment");

Assignment and Assumption and Release Agreement and Amendment to Multifamily Mortgage, Assignment of Rents and Security Agreement recorded June 29, 2004 as document R2004-174650 by and among TVO Clover Creek, LLC, David Vandenburg, Mortgagor, John Goodman, Stanley J. Harrison and Mortgagee (the "Assignment and Assumption"); and

2. Security interest of Red Mortgage Capital, Inc., secured party, in certain described chattels on the land, as disclosed by Financing Statement naming TVO Clover Creek LLC, as debtor, and filed December 20, 2000 as number 2000U-2321 and recorded as document R2000-198940,

Assignment of debtor filed June 29, 2004 as number 2004U-0566 and recorded as document R2004-174653 from TVO Clover Creek LLC to Mortgagor; and

Continuation filed July 14, 2005 as number 2005U-0569 and recorded as document R2005-150458 (collectively, the "Fannie Mae UCC Instruments").

NOW, THEREFORE, the undersigned, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, does hereby forever release, exonerate, and discharge from the lien, operation, force, and effect of the Mortgage, the Assignment, Mortgage Amendment, the Assignment and Assumption and the Fannie Mae UCC Instruments the real property encumbered thereby and located at 801, 810, 820, 830, 840, 850, 860, 870, 880, and 890 Foxworth Boulevard, Lombard, DuPage County, Illinois, as more clearly described in **Exhibit "A"** attached hereto.

[SIGNATURE PAGE ATTACHED HERETO]

