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DOC # 830460
09/12/2013 02:02PM Deputy: SG
OFFICIAL RECORD
Requested By:
First American Title NCS -
Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 8 Fee: \$21.00
BK-913 PG-2461 RPTT: 0.00



Prepared by and after recording return to:

James J. Schwert, Esquire
Oppenheimer Wolff & Donnelly LLP
Campbell Mithun Tower – Suite 2000
222 South Ninth Street
Minneapolis, MN 55402-3338

Freddie Mac Loan Number: 968714234
Emeritus at Gardnerville

**SECOND MODIFICATION AGREEMENT
TO
SECURITY INSTRUMENT**

This SECOND MODIFICATION AGREEMENT TO SECURITY INSTRUMENT (“Modification Agreement”) is made effective as of the 1st day of September, 2013, by and between 1565 VIRGINIA RANCH ROAD, LLC, a limited liability company organized and existing under the laws of Delaware, whose address is c/o Health Care REIT, Inc., 4500 Dorr Street, Toledo, Ohio 43615 (“Borrower”), and FEDERAL HOME LOAN MORTGAGE CORPORATION, a corporation organized and existing under the laws of the United States, having its principal place of business at 8200 Jones Branch Drive, McLean, Virginia 22102 (“Lender”).

PRELIMINARY RECITALS

A. KEYCORP REAL ESTATE CAPITAL MARKETS, INC., a corporation organized and existing under the laws of Ohio, whose address is 127 Public Square, Cleveland, Ohio 44114 (“KeyCorp”), has made a Loan to Borrower in the original principal amount of Thirteen Million Three Hundred Fifty-Nine Thousand and No/100 Dollars (\$13,359,000.00) (“Loan”). The Loan is evidenced by a Multifamily Note dated April 6, 2009, in the original principal amount of Thirteen Million Three Hundred Fifty-Nine Thousand and No/100 Dollars (\$13,359,000.00) (“Note”) and is secured by a Multifamily Deed of Trust, Assignment of Rents and Security Agreement dated April 6, 2009, filed on April 9, 2009 as Document No. 741135, Book 409, Page 2512, Douglas County, Nevada, AS AMENDED BY THAT CERTAIN Modification Agreement to Security Instrument dated September 3, 2010 filed on September 17,



2010 as Document No. 770674, Book 910, Page 3643 (“Security Instrument”) covering the parcel of land owned by Borrower and described in Exhibit “A”, annexed hereto and made a part hereof together with the improvements thereon (“Mortgaged Property”);

B. Borrower also executed and delivered that certain Cross-Collateralization Agreement and Amendment to Security Instrument dated April 6, 2009, filed on April 9, 2009 as Document No. 741136, Book 409, Page 2585, Douglas County, Nevada (“Cross-Collateralization Agreement”);

C. The Note, Security Instrument, Cross-Collateralization Agreement and certain other loan and security documents executed in connection with the Loan are hereinafter referred to as the “Loan Documents.”

D. The Security Instrument and the Cross-Collateralization Agreement together with the other Loan Documents were assigned to Lender by Assignment of Security Instrument and Cross-Collateralization Agreement dated April 6, 2009, filed for record on April 9, 2009, as Document No. 741138, Book 409, Page 2615, Douglas County, Nevada.

E. The Borrower has requested that the Security Instrument be amended as is set forth herein, and the Lender is willing to consent to such amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Any term used in this Agreement and not defined will have the meaning given to that term in the Security Instrument.
2. Section 3(d) of the Security Instrument is modified to delete the word “If” at the beginning thereof, and replace it with the following: “Subject to the terms of any Subordination, Non-Disturbance and Attornment Agreement entered into by and among Borrower, Lender and any operator of the Mortgaged Property (“SNDA”), if”.
3. The Security Instrument is hereby amended as follows:
 - a. Paragraph 3 of Exhibit D is hereby deleted in its entirety.
 - b. Section 51(a)(2) of Exhibit B is hereby deleted in its entirety and the following is inserted in lieu thereof:
 - (2) “Operating Lease” or “operating lease” shall mean that Lease dated as of September 1, 2013, entered into by and between Borrower, as Landlord, and Operator, as Tenant, leasing the Mortgaged Property.
 - c. Section 51(a)(3) of Exhibit B is hereby deleted in its entirety and the following is inserted in lieu thereof:



- (3) "Operator" or "operator" shall mean Emeritus Corporation, a Washington corporation and the tenant of the Improvements under the Operating Lease, its successors and assigns.
- d. Section 52 of Exhibit D is hereby modified to substitute the name, "Emeritus" for the name "Merrill".
- e. Section 53 of Exhibit D is hereby modified as follows:

All references to that certain Master Lease Agreement between Borrower and MG Tenant, LLC, dated September 1, 2010, are hereby deleted and the Master Lease Agreement dated September 1, 2013, by and between Borrower and Emeritus Corporation is hereby inserted in lieu thereof.
- f. The following is added to the Security Instrument as Section 54:

The Mortgaged Property is being operated by the Operator pursuant to the Operating Lease described herein. Lender has consented to various Loan Document accommodations based on the fact that Operator is a third party and unrelated to Borrower. Lender agreed to permit Operator to execute a Subordination, Non-Disturbance and Attornment Agreement in lieu of executing a Security, Assignment and Subordination Agreement on Lender's standard form ("SASA") and other Loan Documents typically required by Lender to be executed by Operator, Borrower and property manager, if applicable ("SASA Related Documents"), in a seniors housing loan transaction to be sold to Federal Home Loan Mortgage Corporation ("Freddie Mac"). In addition, Lender permitted various Loan Document modifications related to the third party Operator structure. At such time in the future that (a) Borrower or any entity which owns, directly or indirectly, a Controlling Interest in Borrower, acquires an ownership interest in the Operator, or (b) after the date hereof, Operator enters into a sublease or management agreement with a third party unaffiliated with or unrelated to Operator, but affiliated with or related to Borrower, the SASA, the SASA Related Documents and all other documents required by Freddie Mac and Lender in a seniors housing loan transaction involving a related-party Operator must be executed by Operator, Borrower and property manager, if applicable. Furthermore, loan document modifications related to the third party Operator structure permitted by Lender and described above will be nullified by amendment.
- g. Within sixty (60) days of the date hereof, Operator shall provide to Lender a list of all National Contracts with respect to the Mortgaged Property certified true and correct by Operator.
- 4. The Security Instrument shall continue to secure the indebtedness evidenced by the Note with all priorities enjoyed at its inception.
- 5. Except as provided herein, the terms and provisions of the Loan Documents shall remain unchanged and shall remain in full force and effect. Any amendment, revision or



modification herein of the Loan Documents shall in no way affect the security of the Security Instrument and the Loan Documents for the payment of the Note.

6. The parties hereto acknowledge, ratify and affirm that the liens and security interests created and evidenced by the Loan Documents are valid and subsisting and further acknowledge and agree that there are currently no offsets, claims or defenses to the Note or the Security Instrument.
7. Lender does not release the Borrower or any parties to the Loan from any obligation or liability in connection with the Loan or under the Loan Documents and nothing contained in this Modification Agreement shall be deemed a waiver or substitution or release of the obligation or liability of the Borrower and such other parties with respect to any obligation or liability in connection with the Loan or under the Loan Documents.
8. The parties hereto do not intend by the execution and delivery of this Modification Agreement, to waive any defaults which may exist under the Loan Documents and the rights of each with regard to any such default, whether known or unknown, are hereby preserved in their entirety.
9. Nothing in this Modification Agreement shall be construed to be a novation of the Note or the Loan Documents and it is intended that the Lender shall continue to be entitled to all of the priorities existing under the Loan Documents as of the date the same were first executed and delivered.
10. The modifications of the Loan Documents contained in this Modification Agreement shall in no way affect the security or priorities of the Loan Documents for the payment of the indebtedness evidenced by the Note. The liens, security interests, assignments and other rights evidenced by the Loan Documents are hereby renewed and extended to secure payment of the Note. The Loan Documents as modified and amended by this Modification Agreement are hereby ratified and confirmed in all respects.
11. This Modification Agreement and each and every part hereof shall be binding upon the parties hereto and their successors or assigns and shall inure to the benefit of each and every future holder of the Note, including any endorsees, successors or assigns of the Lender.
12. This Modification Agreement may be executed in any number of counterparts all of which, together, shall constitute one and the same Amendment with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signature page of any counterpart may be removed therefrom and attached to any other counterpart.

[signature pages follow]



IN WITNESS WHEREOF, the parties hereto caused this Modification Agreement to be executed as of the date and year first above written.

BORROWER:

1565 VIRGINIA RANCH ROAD, LLC, a Delaware limited liability company

By: MG LANDLORD, LLC, a Delaware limited liability company

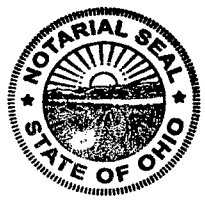
By: Michael A. Crabtree
Name: Michael A. Crabtree
Title: Secretary and Treasurer

STATE OF Ohio)

COUNTY OF Lucas)

This instrument was acknowledged before me on August 27, 2013, by Michael A. Crabtree, the Secretary and Treasurer of MG Landlord, LLC, a Delaware limited liability company, the Sole Member of 1565 VIRGINIA RANCH ROAD, LLC, a Delaware limited liability company, on behalf of said limited liability company.

Wanda J. Noward
Notary Public
Printed Name: _____
My Commission Expires: _____



WANDA J. NOWARD
Notary Public
In and for the State of Ohio
My Commission Expires
May 31, 2017



BK 913
PG-2466

LENDER:

FEDERAL HOME LOAN MORTGAGE CORPORATION, a corporation organized and existing under the laws of the United States

By: 

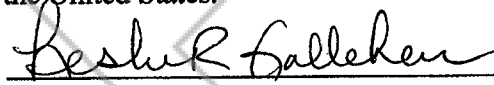
Name: R. Stephen Power
Title: Director

COMMONWEALTH OF VIRGINIA)

) ss:
)

COUNTY OF FAIRFAX

This instrument was acknowledged before me on Aug 29, 2013 by R. Stephen Power, the Director of FEDERAL HOME LOAN MORTGAGE CORPORATION, a corporation organized and existing under the laws of the United States.



Notary Public

Printed Name: _____

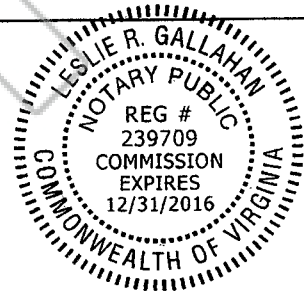




EXHIBIT A

Description of Land

PARCEL 1:

A parcel of land located within a portion of Section 10, Township 12 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

Commencing at the Northeasterly corner of Lot 5, Block "D" as shown on the Final Map for Jewel Commercial Park, Phase 2 filed for record July 24, 1997 in the office of Recorder, Douglas County, Nevada as Document No. 417846, the Southwesterly terminus of Mathias Parkway;

Thence along the boundary of said Lot 5, South 29° 35' 16" West, 237.13 feet to the POINT OF BEGINNING;

Thence continuing along the boundary of said Lot 5 the following courses:

South 29° 35' 16" West, 468.08 feet;

North 46° 24' 12" West, 620.29 feet to a point on the Southerly right-of-way of Virginia Ranch Road;

Thence along said right-of-way, North 29° 35' 16" East 567.22 feet to the Southwesterly corner of Lot 5A as shown on the Record of Survey for Jewel Commercial Park recorded September 19, 1997 in said office of the Recorder as Document No. 422092;

Thence along the boundary of said Lot 5A, South 60° 24' 44" East, 82.61 feet;

Thence leaving said boundary of Lot 5A, South 11° 08' 02" East, 343.63 feet;

Thence South 71° 18' 45" East, 58.86 feet;

Thence South 60° 24' 44" East, 237.25 feet to the POINT OF BEGINNING.

APN: 1220-10-610-012

Document Number 0605687 is provided pursuant to the requirements of Section 1.NRS 111.312

PARCEL 1A:

Reciprocal Easements as set forth in that certain document entitled Declaration of Reciprocal Easements and Covenants recorded February 26, 2004, Book 204, page 11262, as Document No. 605687 of Official Records, Douglas County, Nevada.

PARCEL 2:

A parcel of land located within a portion of Section 10, Township 12 North, Range 20 East, M.D.M., more particularly described as follows:

Commencing at the Northeasterly corner of Lot 5, Block D as shown on the Final Map for JEWEL COMMERCIAL PARK, PHASE 2, recorded July 24, 1997 in the office of the Recorder,



Douglas County, Nevada as Document No. 417846, the Southwesterly terminus of MATHIAS PARKWAY; thence along the Southerly right-of-way of said MATHIAS PARKWAY, North 44 degrees 45 minutes 21 seconds West, 423.56 feet to the POINT OF BEGINNING; thence South 45 degrees 14 minutes 39 seconds West, 20.00 feet; thence South 81 degrees 33 minutes 55 seconds West, 134.55 feet; thence North 60 degrees 24 minutes 44 seconds West, 82.61 feet to a point on the Easterly line of VIRGINIA RANCH ROAD; thence North 29 degrees 35 minutes 16 seconds East, 116.94 feet; thence along the arc of a curve to the right having a radius of 30.00 feet, central angle of 105 degrees 39 minutes 23 seconds, and an arc length of 55.32 feet to a point on the Southerly right-of-way of said MATHIAS PARKWAY; thence South 44 degrees 45 minutes 21 seconds East, 161.91 feet to the POINT OF BEGINNING.

Reference is made to Record of Survey recorded September 19, 1997, in Book 997, Page 4056, as Document No. 422092.

1220-10-510-004

Document Number 436655 is provided pursuant to the requirements of Section 1.NRS 111.312