In the Matter of the Application of Columbia MHC East LLC d/b/a Columbia Park Water and Sewer System, for an Increase in Rates and Charges	**)** **)** **)** **)**	**Case No. 18-1294-WS-AEM**

JOINT MOTION OF RECEIVER M. SHAPIRO REAL ESTATE GROUP OHIO, LLC AND & U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL PASS-THROUGH CERTIFICATES, SERIES 2007-C1 TO DISMISS EMERGENCY RATE CASE ACTION

M. Shapiro Real Estate Group Ohio, LLC, through Kimberly Scott, the court-appointed receiver in Cuyahoga County Court of Common Pleas Court Case No. CV-17-887110[1] with respect to the regulated assets at issue herein (the "Receiver"), and U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1 (the "Bank") (collectively, "Movants") hereby jointly and respectfully move the Public Utilities Commission of Ohio ("PUCO" or the "Commission") to dismiss the above-captioned matter for the reasons set forth herein.

On August 15, 2018 and October 9, 2018, Columbia MHC East LLC dba Columbia Park Water and Sewer System ("CPWSS") filed an Application for Emergency Rate Increase and an amendment thereto (collectively, the "Emergency Application"). Through the Emergency Application, CPWSS alleges that it is entitled to emergency rate relief for the purpose of financing the replacement of the waste water treatment plant ("WWTP") that is situated within and serves approximately 1,500 residents of the Columbia Park Mobile Home Community located in Cuyahoga County, Ohio (the "Community") and, apparently, to reimburse CPWSS for

[1] Captioned U.S. Bank National Association, as Trustee v. Columbia Park East MHP LLC, et al. and filed on October 9, 2017.

"extraordinary legal fees." Specifically, CPWSS seeks a 249% increase in sewer rates from $36.14/mcf to $89.20/mcf for a period of eighteen (18) months or until such time as the increase is made permanent.[2]

In addition, and to bolster its income, CPWSS seeks the creation of a new customer class to subject the Community's joint owners, Columbia Park East MHP LLC and Columbia Far West, LLC (collectively, "Borrowers"), to the existing PUCO tariffs, as they may be amended through this action, or, alternatively, for an emergency order declaring that (i) Borrowers are already subject to the existing tariffs and any rate increases thereunder and (ii) CPWSS shall be entitled to terminate water and sewer service to Borrowers should they fail to pay. CPWSS projects billing the proposed new Borrower customer class $262,359.85 per year.

As demonstrated in the Memorandum in Support attached hereto and incorporated herein, CPWSS lacks standing to file, let alone maintain, the Emergency Application pursuant to a valid and effective state court order. Indeed, the Receiver possesses exclusive authority with respect to the WWTP and its operations. In addition, the Emergency Application must be dismissed on substantive grounds because it fails to meet the standards required under R.C. § 4909.16, it fails to meet the Commission's standards for authorizing emergency rate relief, and because it improperly seeks the creation of a new customer class.

[2] CPWSS filed its application for permanent rate increase on October 9, 2018, PUCO Case No. 18-1528-WS-AIR on October 9, 2018 (the "Permanent Application"). On November 20, 2018, the Commission issued a letter to CPWSS advising that the Permanent Application is deemed to be out of compliance with Ohio law and the Commission's Standard Filing Requirements. On December 5, 2018, the Commission filed an Entry determining non-compliance pursuant to O.A.C. 4901-7-01, *et seq*.

Respectfully submitted,

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TRUSTEE

In the Matter of the Application of	**)**	
Columbia MHC East LLC d/b/a Columbia	**)**	**Case No. 18-1294-WS-AEM**
Park Water and Sewer System, for an	**)**	
Increase in Rates and Charges	**)**	

MEMORANDUM IN SUPPORT

I. Background

In 2001, Trailer Park, Inc. conveyed the manufactured home park located at 7100 Columbia Road, Olmsted Township, Ohio and commonly known as the Columbia Park Mobile Home Community (the "Community") to Columbia MHC East, LLC, which operates under the registered trade name Columbia Park Water and Sewer System ("CPWSS"). The subject WWTP and waterworks system (collectively, the "WWTP") are situated within the boundaries of the Community.[3] Upon taking title to the Community in 2001, CPWSS sought approval from the Ohio Environmental Protection Agency ("OEPA") and this Commission to operate the WWTP.[4] Notably, CPWSS described the WWTP in its PUCO application as having "been in service for many years, and was developed starting in the 1950's to satisfy the demand generated from a 55+ age mobile home park known as Columbia Park."[5] In 2004, this Commission issued to CPWSS Certificates of Public Convenience and Necessity Nos. 40 and 43 in Case No. 10-2567-

[3] *See*, site map filed with Supplement #1 to Emergency Application; *see also*, Motion to Dismiss filed by Kenneth C. Burnham ("Burnham") on 10/1/18 in Cuyahoga County Court of Common Pleas Case No. CV-18-903788 (the "OEPA Action") ("[t]he CPWSS sewer plant is located within the boundary of the Receivership Property"), at 2, attached hereto as Exhibit A.

[4] *See*, OEPA's 7/5/01 approval of CPWSS' request to transfer NPDES Permit No. 3PV00013*CD (the "NPDES Permit") into its name in conjunction with its acquisition of Columbia Park, attached hereto as Exhibit B, and relevant portions of CPWSS' PUCO application dated 9/24/01, attached hereto as Exhibit C.

[5] *See*, Exhibit C at 4.

WS-ACE (collectively, the "Certificates").[6] CPWSS never represented that it considered the WWTP to be separate and distinct from the Community real estate.

In 2007, CPWSS conveyed its interest in the Community and related assets to Columbia Park East MHP LLC[7] and Columbia Far West, LLC (collectively, the "Borrowers") as part of a $55,000,000 refinancing of the property with original lender General Electric Capital Corporation ("Original Lender").[8] That loan is secured by, among other things, a first mortgage, fixture filing, and other security interests in the Community and the fixtures and personal property situated thereon. Although it no longer holds any recorded interest in the Community and its fixtures by virtue of the 2007 deed, neither CPWSS nor Borrowers filed applications to transfer the Certificates or NPDES Permit to either of the Borrowers. Rather, CPWSS has continued to operate the WWTP under the Certificates and the NPDES Permit.[9]

The Borrowers' loan agreement specifically includes the WWTP as part of the "Project" for which the $55,000,000 loan was extended in the following provisions:

- Section 4.3(b), which addresses environmental matters and permits "the maintenance of the existing sewer facility on the Project" so long as Borrowers comply with all applicable laws;
- Section 6.6(c), wherein Borrowers warranted that "[t]he Project is served by adequate water, sewer, sanitary sewer and storm drain facilities;
- Section 8.15, captioned "Property Specific Covenants," which states, "Borrower[s] shall keep the sewer facility located at the Project in compliance with all applicable governmental authorities and Environmental Laws, maintain

[6] *See*, Certificates filed with Supplement #1 to Emergency Application.
[7] As noted *supra*, CPWSS is the registered trade name of Columbia MHC East, LLC. Columbia MHC East, LLC dba CPWSS is the sole member of Borrower Columbia Park East MHP, LLC. Kenneth C. Burnham is the president of CPWSS and is also a member and shareholder of two entities that own CPWSS. *See*, Exhibit D attached hereto (Schedule III to the subject loan agreement identifying Borrowers' organizational structure).
[8] *See*, Warranty Deed recorded in Cuyahoga County, Ohio public records at AFN 200705030084, attached hereto as Exhibit E.
[9] Rule 4901:1-15-09, O.A.C., contemplates the transfer of PUCO certificates when property is transferred. Although CPWSS no longer owns Columbia Park, it remains the permittee under the current NPDES Permit, which provides, "[t]he issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges…" *See*, Exhibit F at 28, ¶25 (emphasis added).

> all applicable permits, and satisfy all matters raised by application inspections. If such sewer facility is required to connect to the applicable municipal sewer, Borrower[s] shall pay for all costs associated therewith."[10]

Consistent with the Loan Agreement, the Mortgage expressly includes the WWTP as part of the "Mortgaged Property," which is described as:

> (b) all buildings, structures and other improvements, now or at any time situated, placed or constructed upon [Columbia Park] (the "Improvements"), (c) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by [Borrowers] and now or hereafter attached to, installed in or used in connection with any of the Improvements or [Columbia Park], and water, gas, electrical, storm and sanitary sewer facilities and all other utilities … and all other personal property of any kind or character … now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to [Columbia Park] and Improvements or which may be used in or relating to the … operation of the Mortgaged Property, including, without limitation … equipment [and] machinery …. (the "Personalty").[11]

The Mortgage and fixture filing, and the assignments to Bank thereof, have been duly recorded. The Mortgage constitutes a first and best mortgage lien against the Community, the WWTP, and all assets used in connection therewith.[12] Although CPWSS is not a borrower on the promissory note, it is expressly identified in the subject loan documents as a "Borrower Party" because of its sole ownership interest in Borrower Columbia Park East MHP LLC.[13] Moreover, Borrowers expressly represented and warranted that each owns the Mortgaged Property, that the execution and delivery of the Loan Agreement and Mortgage constitute valid and binding obligations upon themselves and Borrower Parties, and that "all persons or entities

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[10] *See*, Loan Agreement (the "Loan Agreement"), attached hereto as Exhibit G, at cited provisions (emphasis added).
[11] *See*, Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage"), attached hereto as Exhibit H, at cited provisions (emphasis added).
[12] *Id*. and Exhibits I (fixture filing), J (Mortgage assignment), and K (fixture filing assignment), attached hereto.
[13] *See*, Exhibit D; *see also*, Exhibit G at numbered page 1. Because CPWSS is the sole member of Borrower Columbia Park East MHP LLC, it is a "Borrower Party" as defined in the Loan Agreement.

who may have or who may acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Loan Agreement and [Mortgage]; however, no such party shall be entitled to any rights thereunder without the prior written consent of [Bank]."[14]

On October 9, 2017, the Bank commenced Cuyahoga County Court of Common Pleas (the "Court") Case No. CV-17-887110 in order to, among other things, enforce payment of the matured $55,000,000 promissory note, foreclose its Mortgage, fixture filing, and other security interests in the Community and assets located thereon, and appoint a receiver to manage and control same (the "Foreclosure Action").[15]

On March 1, 2018, upon the Bank's motion and after hearing, the Court entered its Order Appointing Receiver, wherein it appointed the Receiver and authorized her "to take immediate possession and full control of the Receivership Property and … to exercise full control over, to prevent waste, and to preserve, manage, secure, and safeguard the Receivership Property" (the "Receivership Order").[16] The Receiver filed her executed Oath on March 2, 2018.[17] The Receiver notified the Commission of her appointment in writing pursuant to O.A.C. 4901:1-15-06 on March 6, 2018.[18]

The Receivership Order grants the Receiver authority to manage and control all "Receivership Property," which is defined as including all real estate that is subject to the mortgage, all personal property located thereon, all fixtures attached to or used in connection with the use and operation of the Community, and all improvements thereon.[19] Specifically, the

[14] Exhibit G at § 6.2; Exhibit H at §§ 3.1 and 7.3 (emphasis added).
[15] *See*, Foreclosure Action case docket attached hereto as Exhibit L.
[16] *See*, Journal Entry and Order Appointing Receiver (the "Receivership Order"), attached hereto as Exhibit M.
[17] *See*, Exhibit N attached hereto.
[18] *See*, Exhibit O attached hereto.
[19] Exhibit M at § 7.1

Receiver is authorized to exercise full control over, and to preserve, manage, secure and safeguard the Receivership Property as deemed advisable in her discretion, and to assume control over and operate the Receivership Property.[20]

Conversely, the Receivership Order expressly provides that "Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order"[21] shall not in any way "interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management, marketing or sale of the Receivership Property."[22] *Id*. at 14.7(d). Notably, the Receivership Order also prohibits those parties from terminating or withholding any water, sewer, or other utility service supplying the Receivership Property, requiring any utility deposit and from otherwise interfering with the continuing operations of the Receivership Property.[23]

CPWSS and related defendants commenced an appeal of the Receivership Order in the Eighth District Court of Appeals on March 7, 2018, asserting that the WWTP is not subject to the Bank's Mortgage and therefore cannot be subject to the Receivership Order (the "Appeal").[24] None of the appellants sought or obtained a stay of the Receivership Order during the pendency of the Appeal pursuant to Ohio App. R. 7. The Receivership Order, which grants the Receiver with sole authority over the WWTP and its management, has remained in full force and effect since its entry. On December 20, 2018, the Eighth District Court of Appeals entered its opinion and judgment affirming the entry of the Receivership Order in all respects.[25] The appellate court agreed that the WWTP constitutes a fixture upon the Columbia Park real estate, is therefore

[20] *Id*. at §§ 1.1 and 2.1(a), (c), and (m).
[21] CPWSS received electronic notice of the entry of the Receivership Order through its counsel of record in the Foreclosure Action on March 1, 2018. *See*, Exhibit L.
[22] Exhibit M at § 14.7(d).
[23] *Id*. at § 14.7(c).
[24] Case No. CA-18-106910.
[25] *See*, Judgment entered 12/20/18 at 1.

subject to the Mortgage, is part of the Mortgaged Property, and is thus subject to the Receivership Order.[26]

The transition of the Community into receivership has not gone smoothly. The Receiver has filed multiple show cause motions, one of which resulted in a contempt order directing CPWSS and Burnham to return $329,578.25 to the Receiver following the improper transfer of funds from Borrowers' operating account to CPWSS following entry of the Receivership Order.[27] In addition, the Community's management company, KDM Development Corp. ("KDM")[28] directed the on-site property manager to remove the entire water and sewer billing system from the Community's management office, which left the Receiver unable to monitor and account for residents' usage of the utilities.[29] These are but two examples of Burnham's and CPWSS' interference with and disregard for the Receivership Order.[30]

On August 15, 2018 and October 9, 2018, CPWSS filed its Application for Emergency Rate Increase and an amendment thereto (collectively, the "Emergency Application"[31]), seeking the Commission's approval to drastically increase rates as a means of financing the $3,500,000 cost of replacing the WWTP and to recover its "extraordinary legal fees."[32] In addition, CPWSS seeks (i) the Commission's approval to create a new customer class so that it can bill Borrowers a projected $262,359.85 per year for its services and (ii) an order declaring that Borrowers are

[26] *Id*. at ¶22 ("we conclude that the wastewater treatment plant cannot be considered separate and apart from the mortgaged property …").
[27] *See*, Journal Entry and Order and Opinion, entered 7/10/18, attached hereto as Exhibit Q. The Receiver has recovered those funds.
[28] Burnham is the chief executive officer of KDM. *See*, Receiver's Second Emergency Motion to Show Cause, filed 3/22/18 and attached hereto as Exhibit R at 5.
[29] *See*, Receiver's Emergency Motion to Show Cause, filed 3/15/18, attached hereto as Exhibit S, at 5.
[30] *See*, Exhibit R, discussing Burnham's 3/9/18 request that PUCO enjoin the Receiver from "interfering in the operations of CPWSS" and his advising Community residents to direct water and sewer payments to a new address in order to prevent Receiver's collection of same. In light of the outcome of the Appeal, it cannot be disputed that Burnham and CPWSS have interfered with the Receiver's operations, not the other way around.
[31] The Emergency Application consists of a Waiver Request with supporting data-work papers and a Work Paper Filing, both docketed on August 15, 2018, and Supplement #1 that was docketed on October 8, 2018.
[32] *See*, Waiver Request at 2; Work Paper Filing at Exhibit 1; Supp. #1 at 2.

already subject to the existing tariffs and that CPWSS has the right to unilaterally shut off service if Borrowers do not pay the projected service fees.[33] CPWSS seeks emergency action to increase its sewer rates by 249% from $36.14/mcf to $89.20/mcf.[34] It should be noted that CPWSS did not serve the Receiver with the Emergency Application or otherwise notify the Receiver of the Emergency Application.

On November 16, 2018, Movants filed a Joint Motion to Intervene in this matter pursuant to R.C. § 4903.221 and O.A.C. 4901-1-11. As the Court-appointed Receiver and mortgagee of the WWTP assets, Movants asserted direct, real, and substantial interests in the issues and matters involved in this proceeding. CPWSS filed its Opposition to the Joint Motion to Intervene on November 30, 2018.[35] Movants not only possess sufficient interests entitling it to intervene, but, as detailed herein, CPWSS has no interest in this matter by virtue of the Receivership Order. The Commission should dismiss this action because CPWSS has no authority or standing to commence or maintain this action. Notwithstanding that dispositive issue, the Emergency Application should be dismissed on substantive grounds.

II. Burnham and CPWSS Lack Standing to File and Maintain this Proceeding.

Section 4905.02(A) of the Ohio Revised Code defines a public utility as including, in relevant part, "every corporation, company … or receivers of the foregoing …". *Id*. (emphasis added). By virtue of the Court's appointment of the Receiver on March 1, 2018, CPWSS and the subject WWTP assets were placed into receivership subject to the terms and conditions of the Receivership Order. The Receiver notified the Commission in writing of her appointment on March 6, 2018. Under the definition provided in R.C. § 4905.02(A), and as provided under the

[33] *See*, Work Paper Filing at Exhibit 4.2; Supp. #1 at 2.
[34] *See*, Work Paper Filing at Exhibit 5; Waiver Request at Sections B and E; Supp. #1 at 1 – 2.
[35] CPWSS' arguments in opposition all miss the mark because CPWSS inartfully confuses PUCO's jurisdiction to hear rate increase actions with the Receiver's authority over CPWSS and the WWTP and, importantly, the Court's well-settled authority to enforce the Receivership Order.

recently affirmed Receivership Order, the Commission must recognize the Receiver, and not CPWSS, as the "public utility" for purposes of this matter.

This conclusion accords with well-settled law. As the result of her appointment, the Receiver "stands in the shoes" of CPWSS and is vested with exclusive authority to manage and control the WWTP and its operations as set forth in the Receivership Order.[36] Put another way, CPWSS was divested of any authority to file the Emergency Application upon entry of the Receivership Order. In fact, CPWSS' commencement of and efforts to maintain this proceeding violate the plain terms of the Receivership Order.[37] The Receivership Order not only grants the Receiver with authority over the management and control of the WWTP, but it also enjoins Burnham and CPWSS from interfering with the WWTP and the profits and revenues related thereto.[38]

Simply put, CPWSS did not, and does not, possess standing to file and maintain the Emergency Application. The doctrine of standing requires a party to be in the proper position to assert a claim.[39] Because CPWSS and the WWTP are in receivership, it is the Receiver – and only the Receiver – who has authority to bring a rate increase action before this Commission, a point that R.C. § 4905.02(A) makes clear.

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[36] *See*, *e.g., Doyle v. Yoho Hooker Youngstown Co.*, 130 Ohio St. 400, 402, 200 N.E. 123,125; *State ex rel. Petro v. Gold*, 166 Ohio App.3d 371, 392; 850 N.E.2d 1218, 1234 (10th Dist. 2006) (A receiver is an officer of the court and succeeds to the title and rights of action of the corporation itself)*; McGinness v. United States of America*, 90 F.3d 143; 1996 Fed.App.0223P (6th Cir., 1996) (receiver appointed by Ohio state court had legally cognizable interest in taxpayer's property).

[37] On November 21, 2018, the Receiver filed her Fifth Motion to Show Cause in the Foreclosure Action in response to the commencement of these rate increase actions. The Receivership Order specifically prohibits interference with the discharge of the Receiver's duties, with her operation and control of Receivership Property, which includes the WWTP, and the termination of utility service. Exhibit M at § 14(c) and (d).

[38] Exhibit M at § 14.5.

[39] *See, Neilsen v. Ford Motor Co.*, 113 Ohio App.3d 495, 500; 681 N.E.2d 470, 474 (9th Dist. 1996)

III. The Emergency Application Fails to Satisfy the Requirements of R.C. § 4909.16

Notwithstanding the receivership and CPWSS' lack of standing to commence and pursue this action, the Commission should dismiss the Emergency Application on substantive grounds. R.C. § 4906.16, titled "Power to amend, alter, or suspect schedule rates," provides:

> [w]hen the public utilities commission deems it necessary to prevent injury to the business or interests of the public or of any public utility of this state in case of any emergency to be judged by the commission, it may temporarily alter, amend, or, with the consent of the public utility concerned, suspend any existing rates, schedules, or order relating to or affecting any public utility or party of any public utility in this state. Rates so made by the commission shall apply to one or more of the public utilities in this state, or to any portion thereof, as is directed by the commission, and shall take effect at such time and remain in force for such length of time as the commission prescribes.

Id.

The standards by which emergency rate increase applications are judged are:

1. The existence of an emergency is a condition precedent to any grant of temporary rate relief;

2. The applicant's supporting evidence will be reviewed with strict scrutiny;

3. Emergency relief will not be granted if the emergency relief is filed merely to circumvent, and as a substitute for, permanent rate relief under R.C. § 4909.18; and

4. Temporary rate relief will be granted only at the minimum level necessary to avert of relieve the emergency.[40]

The Emergency Application must be dismissed based upon these factors. First, while there is no question that there are pressing issues affecting the WWTP, CPWSS cannot claim in good faith that the requested dramatic rate increase and proposal to suddenly charge Borrower East – and thus the receivership estate – more than $260,000 a year is due to an emergency. To the contrary, Burnham and CPWSS knowingly failed to address the OEPA violations that have

[40] *In the Matter of the Application of Akron Thermal, Limited Partnership for an Emergency Increase in Its Rates*, Case No. 09-0453-HT-AEM at 6.

plagued the WWTP for more than a decade. Instead, CPWSS collected more than nine years of revenue from Columbia Park while ignoring the mounting problems that precipitated the pending OEPA Action. The real "emergency" facing CPWSS is its current predicament: the company and the WWTP is in receivership and facing the OEPA Action, wherein the State of Ohio seeks not only court intervention to force regulatory compliance, but also to collect more than $250,000 in civil penalties from Burnham and others responsible for the violations. Burdening senior residents and the receivership estate with the alleged repair costs and expenses would allow CPWSS and its principals to avoid well-earned liability for years of mismanagement. This must not be permitted.

Second, the Emergency Application includes unaudited financials and is devoid of information as to the operations and requirements necessary to ascertain if emergency rate relief is appropriate. The Emergency Application contains no information concerning the operational, administrative, agency, or judicial history of CPWSS and the WWTP, which appear to necessitate the current filing. The evidence supporting the emergency rate increase consists of hastily compiled and unaudited records, and important information has not been submitted. Such "evidence" cannot survive strict scrutiny.

Third, although the Emergency Application was filed in conjunction with the Permanent Application, the Commission has ruled that the latter is non-complaint with legal requirements and has refused to accept same. As a consequence, the Emergency Application is a "stand-alone" application pending as a substitute for permanent rate relief under R.C. § 4909.18. While the Commission has permitted CPWSS to cure the deficiency through future submissions, the required schedules, costs of service, expert witness testimony, test year, and other information will take time to prepare. The filing of the Emergency Application with no acceptable request

for permanent relief violates the Commission's underlying principle that a request for emergency relief cannot survive absent a corresponding request for permanent rate relief.

Finally, CPWSS seeks a 249% rate increase and the imposition of more than $260,000 in new charges against the receivership estate. This request is based solely upon the construction budget that CPWSS submitted with the Emergency Application. CPWSS offers no analysis as to whether the requested increase is the minimum required to remedy the WWTP violations. In addition, there is no verification that the OEPA has reviewed, let alone approved, the construction budget and proposed repairs. There is no way for the Commission to determine what minimum repairs may be required and how much those repairs will actually cost. As a result, there is no way for the Commission to determine what increase might be appropriate. Moreover, it is clear that CPWSS' goal is to dump all repair costs on the residents and the receivership estate despite its having collected years of revenue with little or no outlay for repairs or upgrades. Even if CPWSS were to establish a credible minimum level of increase, it is patently unjust for CPWSS and its principals to shirk fiscal responsibility and place the burden upon the community and the receivership estate.

CPWSS has failed to satisfy any of the Commission's standards and has not demonstrated that the requested emergency rate relief is warranted. The Emergency Application must be dismissed.

IV. CPWSS Improperly Seeks to Create a New Customer Class

Notwithstanding the fact that CPWSS' request to create a new customer class for Columbia Park violates the Receivership Order and would improperly siphon the Bank's cash collateral, the Emergency Application must be dismissed because the creation of a new customer class constitutes a fundamental change in the existing rate structure. The Commission is tasked

with determining whether an emergency increase is warranted and, if so, what minimum increase will relieve the claimed emergency. The request to create a new customer class, in addition to being wholly improper in this case, is beyond the scope of the Commission's inquiry in this case. As the Commission has previously concluded, "this emergency rate case is not the appropriate venue to initiate a fundamental change in the … rate structure."[41]

Such is the case here. Not only is the request beyond the scope of an emergency application, but CPWSS again provides no evidence whatsoever supporting the purported Columbia Park usage and the proposed future charges.[42] Seeking the creation of a new customer class in this proceeding is improper and must be rejected.

V. Conclusion

For the forgoing reasons, Movants' respectfully request that the Commission enter the proposed order submitted herewith finding that CPWSS lacks standing to file and maintain rate increase matters due to the receivership and dismissing the Emergency Application.

Respectfully submitted,

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[41] *In the Matter of the Application of Southeastern Natural Gas Co. for an Emergency Rate Increase*, Case No. 01-140-GA-AEM at 5.

[42] Burnham and CPWSS submitted two water bills to the Receiver in August 2018 purporting to cover the fourth quarter of 2017 and the first quarter of 2018. In addition to the fact that the Receiver was not appointed until March 1, 2018, the amounts of the invoices were fabricated and objected to. CPWSS did not respond to those objections. In September 2018, CPWSS submitted an invoice totaling $481.

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel. Michael DeWine, Attorney General 30 E. Broad Street, 25th Floor Columbus, Ohio 43215 *Plaintiff,* v. COLUMBIA PARK EAST MHP, LLC, Columbia MHC East, LLC, Kenneth Burnham, Robert Morgan, George Dagraca, James Martin, and Steven Gordon. *Defendants*	)	CASE NO. CV 18 903788 JUDGE: _____ **MOTION TO DISMISS**

NOW COMES Defendants, including Kenneth C. Burnham, (hereinafter "Burnham" or "Defendant"), appearing pro se in the above entitled action, and hereby swears under oath that the following statements and allegation are true and correct under the penalty of perjury.

Defendants move for dismissal pursuant to Civ R 12(b)(6) of the Code of Ohio for the following reasons and matters of law:

1.) Plaintiff has filed a claim against Defendants which is prohibited by an existing Order of this Court.

2.) Plaintiff has filed claims against Defendants which are not consistent with an existing Order of the PUCO, issued March 14, 2018

3.) This Court lacks jurisdiction over this matter, which can only be brought through PUCO and the Supreme Court of the State of Ohio,

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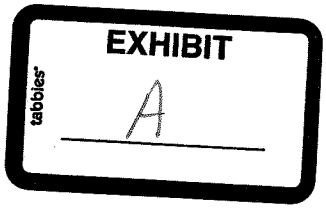

4.) Plaintiff has failed to state a claim in its complaint upon which relief can be granted,

5.) Plaintiff has failed to exhaust its administrative remedies through the Ohio EPA.

6.) The relief requested would result in a manifest injustice to parties in interest, and endanger public health and safety.

7.) Plaintiff itself is a contributory party to the acts and actions to which it complains.

8.) Plaintiff complains and seeks injunctive relief relative to acts which are in reality events which there is only an infinitesimal chances of occurrence and are in facts acts of God; .Plaintiff seeks from Defendants relief where none can reasonably be given.

The Court may find that this Motion should also be treated under Rule 56:

#1) The ORDER of Judge Friedland of the Cuyahoga court of Common Pleas is appended as *Exhibit A* hereto. The Order reads as follows:

> "14.5 All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, agents, employees, and all other persons, firms, and corporations, hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against the Receivership Property, the books, records, revenues, profits, **and related assets associated with the Receivership Property**, or against the Receiver in any Court. These parties are further stayed from executing or issuing or causing the execution or issuance out of any Court of any writ, process, summons, attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon any of the Receivership Property or the books, records, revenues, profits and related assets associated with the Receivership Property, or upon the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of its duties in this proceeding or within the exclusive jurisdiction of this Court 11932775 over the Receivership Property and the books, records, revenues, profits and related assets associated with the Receivership Property."

The complaint of Plaintiff clearly involves a claim against related assets associated with the Receivership Property, as the Defendants property provides water and sewer service through Columbia Park Water and Sewer System ("CPWSS") to the Columbia Park property (the Receivership Property). The CPWSS sewer plant is located within the boundary of the Receivership property The Receiver and Lender actually have claimed that the CPWSS is in fact

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part of their collateral, and part of the Receivership Property. Notice of this Order was sent to the Ohio EPA per the attached e-mail: *Exhibit B*

ACCORDINGLY; Plaintiff has filed a claim against Defendants which is prohibited by an Order of this Court, and as such the Complaint must be dismissed.

#2.) Attached hereto is a copy of the Findings and Order of the PUCO, *Exhibit C* issued on March 14, 2018. The Attorney general is ORDERED as follows:

"ORDERED, That the Ohio Attorney General's office seek any appropriate civil remedies for the protection of the Company's customers."

CPWSS is also committed to the protection of its customers and to assuring that they have continued water and sewer service. The two pumps which caused the overflow problem at the Ash lift station were repaired/replaced shortly after the incident, as per the attached letter to the Ohio EPA. *Exhibit D.*

Encountering a situation where a pump and back up pump both fail within 24 hours of each other is a situation with an infinitesimal chance of occurrence, and was not expected to be encountered by CPWSS.

CPWSS had requested that a permit be issued by the Ohio EPA ("OEPA") to install a brand new pumping station and pumps months before the occurrence of this event, and the request was refused by the OEPA. Their statement was that they wanted a "comprehensive plan". This plan was submitted in March of 2018.

The OEPA has at this time refused to further process CPWSS's application for a Permit to Install "(PTI") the "comprehensive plan" because of the judicial uncertainties surrounding the Receiver's claim that CPWSS is part of the Receivership Property. *Exhibit E*

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The Plaintiff's request for injunctive relief would be impossible for Defendant to comply with as the Plaintiff itself is preventing any further action on issuing the PTI, and implementing the "comprehensive plan"

ACCORDINGLY; Plaintiff has filed a claim against Defendants on which relief cannot be granted, and Plaintiff's Claim for injunctive relief should be dismissed.

Plaintiff never mentions in its Complaint the ORDER of the PUCO, March 14, 2018. It has filed the Complaint based on a request by the OEPA. The OEPA is preventing the implementation of the solution to the problem, thus in turn harming the customers of CPWSS.

. **"ORDERED, That the Ohio Attorney General's office seek any appropriate civil remedies for the protection of the Company's customers."**

Monetary penalties and the payment of legal fees and costs will not serve to protect the customers of the PUCO. This will only serve to drain much needed funds from the CPWSS which have been earmarked to implement the "comprehensive plan", and drive the CPWSS into bankruptcy.

The Plaintiff should be working with and on behalf of the CPWSS and its customers pursuant to the ORDER of the PUCO to solve the problem and assist in the implementation of the "comprehensive plan"'

ACCORDINGLY; Plaintiff has not filed his Complaint as per the ORDER of the PUCO, and as such it must be dismissed.

#3.) This Court lacks jurisdiction over this matter, which can only be brought through the Supreme Court of the State of Ohio.

Columbia MHC East, LLC dba Columbia Park Water and Sewer System ("CPWSS") is a Regulated Public Utility in Ohio. *Exhibit F.*

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Appropriate jurisdiction to hear the matter regarding the CPWSS is through PUCO and reviewable by the Supreme Court of the State of Ohio.

" Subject-matter jurisdiction connotes the power to hear and decide a matter upon its merits. *Cheap Escape Co., Inc. v. Haddox, LLC*, 120 Ohio St.3d 493, 2008-Ohio-6323, ¶ 6. The Public Utilities Commission ("commission") has exclusive jurisdiction over matters involving public utilities, such as rates and charges, classifications, and service, effectively denying to all Ohio courts (**except the Supreme Court**) any jurisdiction over such matters. *State ex rel. Cleveland Elec. Illuminating Co. v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 447, 450 (2000); *see also Kazmaier Supermarket, Inc. v. Toledo Edison Co.*, 61 Ohio St.3d 147, 150-51 (1991) ("The General Assembly has by statute pronounced the public policy of the state that the broad and complete control of public utilities shall be within the administrative agency, the Public Utilities Commission.")."

PUCO's administrative expertise is required to adjudicate this matter, as is evident in that they have already issued an Order on March 14, 2018 regarding CPWSS and its customers.

ACCORDINGLY; This Court is not the appropriate forum, and lacks jurisdiction over the issues and remedies sought by Plaintiff in its Complaint, and it must be dismissed.

Relief Requested, as follows:

For the reasons set forth above; Plaintiffs Complaint should be dismissed with prejudice.

Respectfully submitted,

Kenneth Burnham
Direct (585)-303-5131
kburnham@rochester.rr.com

STATE OF NORTH CAROLINA)

COUNTY OF WAKE)ss.:

On October 1st, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth Burnham, personally known to m) subscribed to the within instrument and acknowledged to me that he executed the same.

SHANNON HOWELL
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires 8/13/2020

Notary Public

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CERTIFICATE OF SERVICE

A copy of the foregoing was served by email on Plaintiffs, this 1st day of October 2018.

/s/ Kenneth Burnham
Defendant

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EXHIBIT A

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102698442

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION
Plaintiff

COLUMBIA PARK EAST MHP LLC, ET AL.
Defendant

Case No: CV-17-887110

Judge: CAROLYN B FRIEDLAND

JOURNAL ENTRY

PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR APPOINTMENT OF A RECEIVER IS GRANTED AS AMENDED HEREIN. OSJ.

Judge Signature

Date
CPMCZ

FILED
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WINDOW 7
CLERK OF COURTS
CUYAHOGA COUNTY

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02/27/2018

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL PASS-THROUGH CERTIFICATES, SERIES 2007-C1,	:	CASE NO. CV-17-887110
	:	JUDGE CAROLYN B. FRIEDLAND
	:	MAGISTRATE MONICA KLEIN
Plaintiff,	:	
	:	**ORDER APPOINTING RECEIVER**
vs.	:	
COLUMBIA PARK EAST MHP LLC, ET AL.,	:	**(FINAL APPEALABLE ORDER)**
Defendants.	:	

THIS MATTER came to be heard upon the Complaint for Judgment Upon Promissory Note and Personal Guarantees, for Foreclosure of Mortgage, Enforcement of Assignment of Rents, Foreclosure of Security Interests in Personal Property, and for Appointment of Receiver (the "Complaint") of Plaintiff U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1 (the "Plaintiff") and Plaintiff's Motion for Immediate Appointment of Receiver and Memorandum in Support Thereof (the "Motion").

Upon consideration of the pleadings filed in this case, **IT IS HEREBY ORDERED:**

1. **Appointment of Receiver.**

M. Shapiro Real Estate Group Ohio, LLC, through Kimberly Scott, its Director of Property Management – Manufactured Housing Division (the "Receiver") is hereby

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appointed receiver of the Receivership Property (as defined below), effective upon the Receiver posting a bond as required below and filing an oath in the form attached to this Order as **Exhibit B** (the "Effective Date"). The Receiver's duty to act as receiver is subject to the terms of this Order.

1.1 As of the Effective Date, the Receiver is authorized and directed to take immediate possession and full control of the Receivership Property and, subject to the further terms, covenants and conditions of this Order, to take such other actions as the Receiver deems reasonable and appropriate to take possession of, to exercise full control over, to prevent waste, and to preserve, manage, secure, and safeguard the Receivership Property. Upon the Receiver taking possession and full control of the Receivership Property, Defendant property owner Columbia Park East MHP LLC ("Borrower East") and Columbia Far West, LLC ("Borrower West") (collectively, the "Borrower" or "Borrowers") shall have neither possession nor control of, nor any right to, Income (as defined below) derived from the Receivership Property.

1.2 The Receiver shall take possession of and receive from all depositories, banks, brokerages, and otherwise (collectively, "Financial Institutions"), any money on deposit in all such Financial Institutions belonging to or arising from the operation of the Receivership Property, whether or not such funds are held in accounts titled in the name of said entities. The Court hereby directs all Financial Institutions to deliver such deposits to the Receiver and such records as the Receiver may reasonably request with respect to such accounts. The Receiver may indemnify, at no expense or liability to Borrowers or any Exculpated Parties (as defined below), the Financial Institution upon which such demand is made, and is empowered to open or close any such accounts.

1.3 The Borrowers are ordered to make available to the Receiver and/or its agents at the Receivership Property the following items for purposes of transitioning the management of the Receivership Property to the Receiver, to the extent said items are in the Borrowers' or its agents' or representatives' reasonable possession and control (Borrowers shall request its agents and representatives to cooperate) and not already in Plaintiff's possession and control and/or publicly available:

a. All keys.

b. Year-end 2016 operating statements, and year-to-date 2017 operating statements.

c. All on-site employee payroll records and employee files and applications (to the extent not Confidential Information, as defined below).

d. An inventory of all equipment, furniture, vehicles, and supplies.

e. Original titles for any community-owned manufactured homes;

f. Copies of any and all titles for any manufactured homes owned by Borrower that do not constitute Receivership Property;

g. Any and all reports pertaining to the Receivership Property including, but not limited to, environmental assessments, physical condition reports, and any information pertaining to pending or deferred maintenance or capital improvements;

h. All non-Confidential Information of Borrower about customers, tenants, current orders, and accounts receivable.

i. All existing service contracts.

j. All pending bids for contractor work.

k. All insurance policies on the Receivership Property and the terms thereof.

l. Information regarding all insurance claims affecting the Receivership Property that have been submitted in the past three (3) years.

m. Site plans, specifications, floor plans, drawings, measurements, etc.

n. Documents identifying and summarizing all pending litigation (excluding this action) affecting the Receivership Property.

o. All non-Confidential Information of Borrowers relating to the Receivership Property set forth in documents, books, records, computer files, computer equipment, software, management files,

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equipment, furniture, supplies, and all passwords needed to access all such software and computer files.

p. All documents reflecting payables and vendor information.

q. All information concerning real estate taxes and personal property taxes.

r. A list of all utilities and utility accounts.

s. All leases including all communication/correspondence files.

t. Documents pertaining to all pending new leases/renewals.

u. A current rent roll showing the name of each tenant, and for each tenant, the space occupied, the lease commencement and expiration date, the rents payable, the aged accounts receivables, the rent paid to date, the security deposit being held for said tenant, and a comparative sales report, each in reasonable detail.

v. Tenant contact names and telephone numbers.

w. The occupant ledgers.

x. All security deposits, security deposit accounts, and an accounting for all security deposits.

y. All cash on hand including, without limitation, (i) petty cash, (ii) tenant/lessee security deposits, (iii) deposits held in escrow for any purpose, such as for payment of real estate taxes and insurance premiums, (iv) proceeds of insurance maintained for or pertaining to the Receivership Property, (v) rents or prepaid rents, (vi) reserves or other funds designated or intended for capital improvements, repairs, replacements, or renovations to, or in connection with, the Receivership Property, (vii) all other sums of any kind relating to or owed for the use, enjoyment, possession, improvement, maintenance, repair or occupancy of all or a portion of the Receivership Property.

z. A current aged accounts receivable/delinquency report.

aa. An aged listing of all trade payables and other payables.

bb. A list of all historical operating expenses for the Property.

cc. A current balance sheet.

dd. A current statement of income and expenses.

ee. A statement of cash flows.

ff. A cash flow forecast addressing the remaining calendar year.

gg. A budget vs. actual variance report.

hh. A leasing activity report.

ii. A capital expenditures report.

jj. Copies of bank statements with monthly reconciliations.

kk. Such other non-Confidential Information (and non-proprietary) records of Borrowers pertaining to the management of the Receivership Property as may reasonably be requested by the Receiver.

The foregoing items are to be made available to the Receiver with the understanding and agreement that (i) the foregoing are made available without representation, warranty or recourse or liability whatsoever (and on a completely "as is" basis), (ii) Borrowers and their agents and representatives may retain copies of any of the foregoing, and (iii) the foregoing may be subject to any consent required from third parties.

1.4 The Borrowers are under a continuing obligation to make available to the Receiver and to turn over all items listed in Section 1.3 after the Effective Date subject to the limitations and qualifications set forth in Section 1.3 hereof.

1.5 The Borrowers and their employees, officers, members, or directors are prohibited from removing any material personal property belonging to the Borrowers from the Receivership Property, or diverting any Income which is collateral for Plaintiff's loan.

1.6 The Borrowers, at no cost or expense to Borrowers or any of the Exculpated Parties (as defined in Section 14.12 herein), shall request that the Receiver and Plaintiff be added as additional insureds and Plaintiff as the loss payee on all insurance in effect on the Effective Date relating to the operation and management of the Receivership Property including, but not limited to, fire, extended coverage, auto and van coverage, property damage, liability, fidelity, errors and omissions, and workers compensation, and modifying the policies if deemed appropriate by the Receiver. The Borrower and its employees, agents, and representatives are prohibited from canceling, reducing, or

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modifying any and all insurance coverage in existence with respect to the Receivership Property so long as the costs, fees and premiums are being paid.

2. **Receiver's Duties and Authority.**

2.1 Subject to the limitations and qualifications set forth in this Order, the Receiver shall be vested with and shall discharge the following authority, powers, and duties (at no cost, expense or liability whatsoever to Borrowers or any of the Exculpated Parties):

a. To maintain, secure, manage, operate, repair, and preserve the Receivership Property in such condition as may be deemed advisable by the Receiver in its reasonable discretion.

b. To change any and all locks to the Receivership Property and limit access to some or all of the Receivership Property as the Receiver deems appropriate.

c. To assume control over the Receivership Property and to collect and receive all Income.

d. To make routine repairs and incidental alterations to the Receivership Property, as may be necessary, including, but not limited to, electrical, plumbing, carpentry, masonry, and any other routine repairs or incidental alterations as may be required in the course of the ordinary maintenance and repair of the Receivership Property.

e. To take such action as deemed appropriate in the Receiver's discretion to comply with any orders or notices of violation affecting the Receivership Property issued by any federal, state, county, or municipal authority having jurisdiction thereof.

f. To prepare and maintain complete books, records, and financial reports of the Receivership Property in a form acceptable to the Court, including maintaining the following:

g. To allow the Plaintiff and its counsel, the Receiver and its counsel, appraisers, and other independent third-party consultants engaged by the Plaintiff and/or Receiver access to the Receivership Property at all reasonable times to inspect the Receivership Property and all books and records, and to cooperate with such parties and independent third-party consultants to evaluate the Receivership Property.

h. To review existing worker's compensation, disability, general liability, and "all risks" hazard insurance and to retain, modify, or

purchase such insurance, and name the Plaintiff and the Receiver as additional insureds, as the Receiver deems appropriate for the preservation and protection of the Receivership Property.

i. To open and maintain a separate account with a federally insured banking institution or savings association with offices in this State from which the Receiver shall disburse all authorized payments as provided in this Order. The Receiver may use the Borrowers' tax identification numbers to maintain existing bank accounts. The Receiver may use the Borrowers' tax identification numbers to open new bank accounts subject to the Borrowers' prior written consent. All funds received by the Receiver pertaining to the Receivership Property shall be held in trust in said account, and shall not be co-mingled with other funds collected by the Receiver for its own account or as an agent for others, until disbursed as provided by this Order.

j. To receive and endorse checks pertaining to the Receivership Property either in the Receiver's name or in the Borrowers' names.

k. To pay all appropriate real estate taxes, personal property taxes, and any other taxes or assessments against the Receivership Property, if the Receiver deems appropriate in its discretion. The Receiver shall not be liable for any commercial activity tax owed by the Borrowers related to the Receivership Property.

l. To prepare and file any tax returns and reports necessary to the operation of the Receivership Property (but not Borrowers or their affiliates) as may be required by law. The Receiver shall not be responsible for the preparation and filing of (and shall not prepare or file) any tax returns or reports for the Borrowers or their affiliates, (including income, personal property, commercial activity, gross receipts, sales and use, or other tax returns) but shall provide to the Borrowers information in the Receiver's possession that Borrowers deem reasonably necessary and appropriate for the Borrowers or their affiliates to prepare and file their returns and reports. The Borrowers shall provide to the Receiver any information needed to file any tax returns for the Receivership Property.

m. To operate the Receivership Property under any existing name or trade name (or a new name, if the Receiver deems it appropriate to do so).

n. To determine as soon as reasonably possible and report to the Court whether any Income previously received by the Borrowers has been used for purposes other than for the maintenance, management, and expenses of the Receivership Property or debt service of Plaintiff's loan.

o. To open and review mail addressed to the Borrowers pertaining to the Receivership Property. The Receiver may also take exclusive possession and control, by demand to the U.S. Postal Service in the name of the Receivership, of any postal boxes that are or were being used by the Borrowers for the receipt of rent or other mail pertaining to the Receivership Property.

p. To seek assistance of law enforcement officials as necessary to preserve the peace and protect the Receivership Property.

q. To employ attorneys, accountants, agents, and other professionals as the Receiver may from time to time deem appropriate and on such terms and conditions as the Receiver deems appropriate. The Receiver shall make application for Court approval to retain attorneys or other professionals as may be required by the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas.

r. To initiate, prosecute, defend, compromise, adjust, intervene in, or become party to such actions or proceedings in state or federal court as the Receiver may, in its opinion and discretion, be necessary or proper for the protection, maintenance and preservation of the Receivership Property or carrying out the terms of this Order.

s. To execute, cancel, or modify lease agreements or extensions of leases.

t. To reject any leases or unexpired contracts of the Borrowers that the Receiver deems to be burdensome on the Receivership Property.

u. To enforce any valid covenant of any existing lease.

3. **Receiver's Authority Subject to Approval.**

3.1 In carrying out the duties contained in this Order, the Receiver is authorized upon and subject to Approval (as defined in Section 12 herein), but is not required:

a. To execute, cancel, modify, renegotiate, or abrogate all service, maintenance, or other contracts in excess of $5,000 relating to the operation of the Receivership Property and with respect to Major Capital Expenditures (as defined in Section 12 herein). All such contracts are to be terminated upon a sale or disposition of the Receivership Property or termination of the Receivership.

b. To engage, on a competitive bid basis, contractors and skilled trades for purposes of (i) maintaining operations of the Receivership Property, and to execute such contracts if the aggregate amount will exceed $5,000, and (ii) carrying out Major Capital Expenditures;

however, no Approval shall be required for a life-threatening or other health or safety emergency.

c. To contest, protest, or appeal any ad valorem tax or assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Receivership Property. Any refund or reimbursement of taxes, whether paid by the Receiver or the Borrower, shall be deemed "Income" to be applied as provided herein.

d. To take any and all actions not specifically enumerated in Section 2.1 of this Order that are, in the Receiver's reasonable judgment, necessary to properly and adequately manage, control, operate, maintain, and protect the Receivership Property.

4. [Intentionally Blank].

5. Listing or Leasing Agent for Receivership Property.

5.1 The Receiver and the Receivership Property shall not be bound by any existing listing or leasing agency agreement affecting the Receivership Property in favor of the Borrower. The Borrower is enjoined from retaining a listing or leasing agent for the Receivership Property or from otherwise interfering with the Receiver's retention of a listing or leasing agent for the Receivership Property which is subject of an Approval. The Receiver is specifically authorized to retain a qualified third party leasing agent for the Receivership Property under terms reasonable acceptable to the Receiver and approved by the Plaintiff and for which adequate assurance is made for payment of such leasing agent.

6. Extent of Receiver's Authority.

6.1 Although the Receiver shall have possession and control of the Receivership Property, the Receiver shall not take title to the Receivership Property. Title to the Receivership Property shall remain in the name of Borrower (other than Income and other Receivership Property distributed to the Plaintiff as provided in this Order), unless foreclosed upon by the Plaintiff, in which case title to the Receivership Property will remain in the name of the Borrower until the delivery of the Sheriff's Deed.

6.2 Without limiting or expanding the foregoing, the Receiver is authorized to exercise only such actions as set forth in this Order, in all cases subject to all the duties of a receiver under the laws of the State of Ohio that may be incidental to the management of the Receivership Property as described in this Order. The Receiver shall not have any additional powers provided by law, except to the extent that the Court upon notice to Borrower may from time to time direct or confer.

6.3 The Receiver shall, during the pendency of this action, have the right to apply to this Court for further instructions or directions.

6.4 The authority granted to the Receiver is self-executing, unless the action requires Approval. Subject to the terms, covenants and conditions set forth in this Order, the Receiver is authorized to act on behalf of, and in Borrower's name (or the Receiver's name), as the Receiver deems appropriate without further order of this Court and without personal recourse against the Receiver (subject to the General Provisions).

6.5 The Receiver is authorized to accept advances from the Plaintiff for operating expenses, working capital, or improvements. All advances to the Receiver by the Plaintiff for the benefit of the Receivership Property, including any advances for working capital or improvements, and any other costs and expenses incurred by the Receiver under this Order, shall be deemed protective future advances under the Borrowers' mortgage and security agreements with the Plaintiff. Any such protective future advances shall be fully secured by the Plaintiff's priority liens and security interests against the Receivership Property. Without derogating from the foregoing, any and all funds advanced by the Plaintiff to the Receiver pursuant to this Order shall: (a) be deemed made pursuant to contract; (b) be added to the amount of the indebtedness owing to the Plaintiff; (c) be

deemed secured by the liens and security interests in favor of the Plaintiff on the Receivership Property to the same extent and with same priority as the other indebtedness secured by all existing liens and security interests in favor of the Plaintiff; and (d) accrue interest at the highest rate chargeable under the existing loan between the Borrowers and Plaintiff. All such funds advanced, including interest on advances, shall be deemed a prior lien entitled to payment before the repayment of any and all other claims against the Receivership Property (except for taxes and assessments having first priority as a matter of law). The Receiver is authorized to issue receivership certificate(s) to secure any such protective future advances by the Plaintiff, but subject to Approval. Nothing in this section shall be construed to require the Plaintiff to advance or loan funds to the Receiver for any reason.

7. **Receivership Property and Income.**

7.1 "Receivership Property" means and includes the following (to the extent the same constitute collateral under Plaintiff's loan and excluding any property (real, personal or other) owned by parties other than Borrowers):

a. The Mortgaged Property, as described in the attached **Exhibit A**.

b. All tangible and intangible personal property located at the Mortgaged Property.

c. All Income.

d. All permits, licenses, leases, other contracts, and other intangible property pertaining to the operation of the Mortgaged Property.

e. All trade names, trademarks, and intellectual property owned or used by the Borrower pertaining to the operation of the Mortgaged Property, subject to any required third party consent.

f. Any refund or reimbursement of taxes, whether for taxes paid by the Receiver or the Borrowers, and whether pertaining to any tax period before or after the entry of this order, and the right to institute or continue any contest, protest, or appeal of any ad valorem tax or

assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Mortgaged Property.

g. Any fixtures, trade fixtures, and tenant improvements or every kind or nature located in or upon or attached to, or used or intended to be used in connection with the operation of the Mortgaged Property and any buildings, structures or improvements located on the Mortgaged Property (to the full extent of the Borrowers' interests in such).

h. All permits, licenses, other contracts, and other intangible property pertaining to the Mortgaged Property and the operations of the Mortgaged Property.

i. All other property, estate, right, title, and interest as described in the Mortgage, Assignment of Rents, Note, and other loan documents.

j. All non-Confidential Information of Borrowers in books, records, accounts, and documents that in any way relate to the Receivership Property or Income.

7.2 The term "Income" means, collectively, all of Borrowers' cash, cash on hand, checks, cash equivalents, credit card receipts, demand deposit accounts, bank accounts, cash management or other financial accounts, bank or other deposits, and all other cash collateral (all whether now existing or later arising); Borrowers' current and past-due earnings, revenues, issues and profits, accounts, and accounts receivable (all whether unpaid, accrued, due, or to become due); all of Borrowers' claims to issues, profits, income, cash collateral, and all other gross income derived from the business operations of the Borrowers related to the Receivership Property, regardless of whether earned before or after entry of this Order.

7.3 Income shall be applied as follows (but subject to the lien rights granted to the Plaintiff):

a. to the Receiver's approved fees and expenses set forth in **Exhibit C** attached hereto;

b. to the current receivership period operating expenses including, but not limited to, any employee payroll expenses, payments due to tenants, brokers, contractors, subcontractors and materialmen, any real estate taxes, and any other taxes arising from normal business operations incurred during the Receivership. The Receiver shall not

make disbursements of more than $5,000 toward receivership period operating expenses without Approval except for life-threatening or other health or safety issues or except as required under the terms of any Leases, brokerage agreements, contractor agreements or other agreements approved or deemed approved by Plaintiff;

c. to the repayment of any receivership certificate securing any protective advances made by the Plaintiff to the Receiver;

d. to the balance due to the Plaintiff until paid in full; and

e. any surplus to be held pending further order of the Court.

7.4 The Receiver may make interim distributions of Income to Plaintiff after payment of current operating expenses provided above in Section 7.3, if the Receiver's "cash on hand" exceeds $50,000 and if it otherwise deems appropriate in its discretion.

8. Property Management Company.

8.1 The Receiver and the Receivership Property shall not be bound by any existing property management agreement affecting the Receivership Property. The Borrowers are enjoined from retaining a management firm for the Receivership Property or from otherwise interfering with the Receiver's retention of a management firm for the Receivership Property. The Receiver is specifically authorized to retain a qualified third party management agent for the Receivership Property under the compensation terms in the attached **Exhibit C**.

9. [Intentionally Blank].

10. Receiver Compensation, Reports, Accounting, And Bond.

10.1 The Receiver shall file an inventory of all Receivership Property in its possession within sixty (60) days of the date of this Order.

10.2 The Receiver shall be compensated as set forth in **Exhibit C**. The Receiver shall make application for payment to the Receiver and any professionals retained by the Receiver.

10.3 The Receiver's applications for compensation (including for compensation of its attorneys and authorized agents) ("Application for Compensation") shall be made only upon prior notice to creditors and other parties of record. Such Applications for Compensation shall include an itemized statement setting forth the compensation requested by the Receiver for the services rendered and costs incurred by it as receiver during the preceding three (3) months, reflecting the dates of service, time spent, and the nature of the services rendered and costs incurred. Unless any party entitled to receive said Application for Compensation as provided in Section 10.8 of this Order files with the Court an objection thereto, and serves copy of same on the Receiver and all other parties, within fourteen (14) days following service of the Application for Compensation, such Application for Compensation shall be approved, subject to the Court's review and approval of the Receiver's final accounting.

10.4 The Receiver's compensation and expense reimbursements shall be paid: (1) first from the Income from the Receivership Property, and (2) next, by the Plaintiff as a protective advance, but only to the extent that the Income is insufficient to pay the Receiver's compensation and expense reimbursements. The Receiver shall be permitted to deduct its fees and expenses directly from the Receivership Property Income or other proceeds of the Receivership Property. The Receiver is authorized to issue receivership certificate(s) to secure any protective advances made by the Plaintiff to pay the Receiver's compensation and expense reimbursements, but subject to Approval.

10.5 Nothing in this Order shall require the Receiver to advance funds other than from Income without a bond or security for payment satisfactory to the Receiver. The Receiver shall not advance funds other than from Income without Approval.

10.6 Within three (3) months of the date of this Order, and at regular intervals every three (3) months thereafter until discharged or at such other times as the Court may direct, the Receiver shall prepare and file a Receiver's Report (including a detailed accounting report and other appropriate information relative to the administration of the receivership and as required by law) pertaining to the operations of the Receivership Property, including at least the following information:

a. A balance sheet.

b. A statement of income and expenses

c. A statement of cash flows.

d. A cash flow forecast addressing the remaining calendar year.

e. A budget vs. actual variance report.

f. A detailed rent roll showing the name of each tenant, and for each tenant, the space occupied, the lease beginning and expiration date, the rent payable, the aged accounts receivable, the rent paid to date, the security deposit being held for said tenant, and a comparative sales report (with per square foot sales), each in reasonable detail.

g. A leasing activity report.

h. An aged payables report.

i. An aged receivables report.

j. A capital expenditures report.

k. Bank statements with monthly reconciliations.

10.7 The Receiver shall also prepare and file any other reports that may be required by the Court.

10.8 The Applications for Compensation and Receiver's Reports, which may be combined as a single filing, shall be filed with the Clerk of the Court and served upon the parties as provided in Ohio Civ. R. 5.

10.9 The Receiver shall furnish the Applications for Compensation and Receiver's Reports to all counsel of record and all parties not in default by electronic mail.

10.10 The Receiver shall post a surety bond from an insurance company licensed to do business in this State in an amount not less than $25,000.00. The cost of the bond is an expense of the Receivership.

11. Confidentiality.

11.1 "Confidential Information" means any non-public information.

11.2 The parties to this action, their counsel, and all those in active concert or participation with them, who receive actual notice of this Order, or otherwise, shall keep all Confidential Information provided by the Receiver confidential, and all such persons are prohibited from disclosing any Confidential Information to anyone other than the parties to this action and their counsel without specific order of this Court.

12. Approval.

12.1 With the exceptions set forth in Section 12.2, whenever this Order uses the term "subject to Approval" or "Approval," the Approval shall not be deemed given except by a specific "Order of Approval" from this Court; or (2) the consent of the Plaintiff or its counsel given in writing.

12.2 Notwithstanding the forgoing, and with respect to any non-budgeted capital expenditures in excess of $10,000, or group of related non-budgeted capital expenditures exceeding $10,000 in the aggregate (collectively, "Major Capital Expenditures"), the Receiver must obtain (1) an Order of Approval from this Court and (2) the consent of Plaintiff or its counsel given in writing. Plaintiff and its counsel shall not have the right to provide such any Approval contemplated in this Section 12 if (i) the Court is otherwise required to provide such Approval under this Order, (ii) such approval requires the Borrower (or the Receiver on behalf of the Borrower) to incur any monetary obligation, or (iii) further statutory approval is required.

13. **Term and Final Accounting.**

13.1 This Receivership shall continue until further order of the Court.

13.2 The Receiver can be removed only in the Court's equitable discretion upon a motion for cause. If the Receiver is removed, the Court may appoint a successor receiver.

13.3 Immediately upon termination of the Receivership, the Receiver shall turn over all of the Receivership Property as ordered by the Court.

13.4 Neither the termination of the Receivership nor the Receiver's removal will discharge the Receiver or the Receiver's bond, which shall be accomplished via separate Court order(s).

13.5 The Receiver shall submit a final accounting (with copies to the recipients of Receiver's Reports as identified above) for approval by the Court within thirty (30) days after the termination of the Receivership or the Receiver's removal.

13.6 Only after the Court approves the Receiver's final accounting may the Receiver be discharged and the Receiver's bond will be cancelled.

14. **General Provisions.**

14.1 The Receiver is only the receiver of the Receivership Property (as defined above), and not of any other assets, activities, business, or operations of the Borrower. The Receiver's responsibilities, duties, and liabilities are expressly limited to those stated in this Order as the same are related to the Receivership Property.

14.2 No person or entity shall file suit against the Receiver, its employees, agents, or its attorneys, or take other action against the Receiver or the Receiver's bond, without first obtaining an order of this Court permitting the suit or action upon motion;

provided, however, that no prior court order is required to file a motion in this action to enforce the provisions of this Order or any other order of this Court in this action.

14.3 The Receiver and its employees, agents, and attorneys shall have no personal liability in connection with any liabilities, obligations, liens, citations, code violations, or amounts owed to any of the Borrowers' creditors, taxing authorities, or bodies politic because of its duties as Receiver. Nothing in this Order shall grant any rights to trade creditors or general unsecured creditors, whose rights shall be solely determined in accordance with Ohio law.

14.4 [Intentionally Blank].

14.5 All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, agents, employees, and all other persons, firms, and corporations, hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against the Receivership Property, the books, records, revenues, profits, and related assets associated with the Receivership Property, or against the Receiver in any Court. These parties are further stayed from executing or issuing or causing the execution or issuance out of any Court of any writ, process, summons, attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon any of the Receivership Property or the books, records, revenues, profits and related assets associated with the Receivership Property, or upon the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of its duties in this proceeding or within the exclusive jurisdiction of this Court

over the Receivership Property and the books, records, revenues, profits and related assets associated with the Receivership Property.

14.6 The Receiver and its employees, agents, and attorneys shall have no personal liability and they shall have no claim asserted against them or the Receiver's bond relating to the Receiver's duties under this Order regarding any action taken or not taken by, except for failure to use ordinary care in administering the Receivership Property, exceeding the authority granted by the Court, or otherwise breaching the Receiver's fiduciary duties as a custodian of the Receivership Property. The Receiver, by use of the Receivership Property only, may hold harmless, and defend the Receiver, its employees, agents, and attorneys from and against any and all liabilities, costs, and expenses actually incurred, including, but not limited to, the cost of any bond required by this Order and reasonable legal and other fees and expenses incurred by them arising from or in any way connected to the performance of the Receiver's duties (but excluding consequential, punitive and/or special damages).

14.7 The Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order, and all those having claims against the Receivership Property who receive notice of this Order, are enjoined from and shall not:

a. **Commit Waste.** Commit or permit any intentional physical waste of all or any part of the Receivership Property, or suffer or commit or permit any act on all or any part of the Receivership Property in violation of law, or remove, transfer, encumber, or otherwise dispose of any of the Receivership Property.

b. **Collect Income.** Demand, collect, receive, discount, or in any other way divert or use any of the Income.

c. **Terminate any Utility Service.** Terminate or withhold any electric, gas, water, sewer, telephone, or other utility service supplying the

Receivership Property, require any utility deposit, or otherwise interfere with the continued operations of the Receivership Property.

d. **Interfere with the Receiver.** Directly or indirectly intentionally, in bad faith, interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management, marketing, or sale of the Receivership Property.

e. **Transfer or Encumber the Receivership Property.** Intentionally, in bad faith, expend, disburse, transfer, assign, sell, convey, devise, pledge, mortgage, create a security interest in, encumber, conceal, or in any manner whatsoever deal in or dispose of the whole or any part of the Receivership Property including, but not limited to, the Income, without prior court order.

f. **Impair the Preservation of the Receivership Property.** Intentionally, in bad faith do any act that will, or that will tend to, impair, defeat, divert, prevent, or prejudice the preservation of the Receivership Property, including the Income, or the preservation of the Plaintiffs' interest in the Receivership Property and the Income.

14.8 The Receiver shall faithfully perform and discharge the Receiver's duties and obey the orders of this Court.

14.9 The Receiver is subject to the personal jurisdiction of the Court.

14.10 This Order and its terms shall be considered compliant with the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas and this Order shall take precedence in the event of a conflict between them.

14.11 The Receiver shall be bound by each and every term contained in this Order and each and every obligation of the Receiver imposed by this Order.

14.12 Notwithstanding anything contained in the loan documents governing Plaintiff's loan or this Order and any Approval, neither Borrowers nor any principal, director, officer, director, employee, advisor, beneficiary thereof, nor any direct or indirect shareholder, partner, manager, member, trustee, agent, or affiliate of the foregoing (nor any principal, director, officer, employee, advisor or beneficiary of any direct or indirect shareholder, partner, manager, member, trustee, agent, of any of the foregoing), or

any legal representatives, successors or assigns of any of the foregoing (all of the foregoing being referred to collectively and individually as the case may be, the "Exculpated Parties") shall have any personal liability for, nor be joined as a party to any action with respect to: (a) the payment of any amount of money which is or may be payable under this Order or any Approval; or (b) the performance or discharge of any covenants, obligations or undertakings of Borrower or its affiliates under this Order or any Approval.

15. Amendment of Order.

15.1 This Order may be amended for cause after a motion or hearing.

16. No Prejudice to Foreclosure/Final Order.

16.1 This Order shall not prejudice the Plaintiff's foreclosure of any mortgage lien or security interest, or any action by the Plaintiff under any loan documents, or any of the Plaintiff's other claims as set forth in its Complaint or any amendments thereto.

17. Final Appealable Order.

17.1 This is a final appealable order and there is no just cause for delay in its entry.

18. Service of Order.

18.1 Pursuant to Civ. R. 58(B), the Clerk shall serve notice of the entry of this Order Appointing Receiver.

IT IS SO ORDERED

JUDGE CAROLYN B. FRIEDLAND

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EXHIBIT B

Electronically Filed 10/01/2018 13:47 / MOTION / CV 18 903788 / Confirmation Nbr. 1509327 / CLJML

Subject: Re: Columbia Park WWTP

From: kburnham1452@yahoo.com
To: Casey.Galligan@epa.ohio.gov
Cc: Rachel.DeMuth@epa.ohio.gov; Craig.Butler@epa.ohio.gov
Bcc: jamesm@kdmdevelopment.com; georged@kdmdevelopment.com
Date: Saturday, March 3, 2018, 4:30:34 PM EST

Dear Mr Galligan:

Although you offered to negotiate a proposed civil penalty in your letter of November 21, 2017. Upon my response and offer to settle you immediately referred the Columbia Park matter to the State of Ohio Attorney General.

I am not sure as to the reasons why you withdrew your offer, by it was not done in good faith, and was prejudicial to the rights and opportunity you offered on November 21.

However in the meantime Columbia has been taken over by a receiver pursuant to the attached ORDER of the Court of Common Pleas.

Please circulate the attached ORDER the interested parties at O EPA and the Attorney general's Office.

Under the terms of the ORDER you are enjoined from taking any action which might effect the Columbia Property, or prosecuting any claim for monetary damages.

14.5 All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, agents, employees, and all other persons, firms, and corporations, hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against the Receivership Property, the books, records, revenues, profits, and related assets associated with the Receivership Property, or against the Receiver in any Court. These parties are further stayed from executing or issuing or causing the execution or issuance out of any Court of any writ, process, summons, attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon any of the Receivership Property or the books, records, revenues, profits and related assets associated with the Receivership Property, or upon the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of its duties in this proceeding or within the exclusive jurisdiction of this Court 11932775 over the Receivership Property and the books, records, revenues, profits and related assets associated with the Receivership Property.

Sincerely

Kenneth Burnham

From: "Casey.Galligan@epa.ohio.gov" <Casey.Galligan@epa.ohio.gov>
To: ken burnham <kburnham1452@yahoo.com>
Cc: "Rachel.DeMuth@epa.ohio.gov" <Rachel.DeMuth@epa.ohio.gov>; "Craig.Butler@epa.ohio.gov" <Craig.Butler@epa.ohio.gov>
Sent: Tuesday, December 5, 2017 1:24 PM
Subject: RE: Columbia Park WWTP

Mr. Burnham,

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Thank you for the timely reply. I will review with our enforcement staff and find some times for us to discuss further.

Sincerely,

Casey Galligan, Staff Attorney
Ohio EPA
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049
(614) 644-3037

The information in this e-mail and in any attachment may contain information which is legally privileged. It is intended only for the attention and use of the named recipient. If you are not the intended recipient, you are not authorized to retain, disclose, copy or distribute the message and/or any of its attachments. If you received this e-mail in error, please notify me and delete this message. Thank-you.

From: ken burnham [mailto:kburnham1452@yahoo.com]
Sent: Tuesday, December 05, 2017 1:19 PM
To: Galligan, Casey <Casey.Galligan@epa.ohio.gov>; Butler, Craig <Craig.Butler@epa.ohio.gov>
Cc: Demuth, Rachel <Rachel.DeMuth@epa.ohio.gov>
Subject: Re: Columbia Park WWTP

Sir/Maam;

Response to recent letter.

If you would like to set up a meeting to discuss this further, I would need some available dates.

Ken

Start Talking!
Building a Drug-Free Future

Did You Know: Children of parents who talk to their teens about drugs are up to 50% less likely to use. Start the conversation: StartTalking.Ohio.Gov

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18.03.01 JE & Order Appointing Receiver.pdf
784.6kB

EXHIBIT C

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THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO COLUMBIA MHC EAST, LLC DBA COLUMBIA PARK WATER AND SEWER SYSTEM.	CASE NO. 18-438-WS-COI

ENTRY

Entered in the Journal on March 14, 2018

I. SUMMARY

{¶ 1} The Commission initiates an investigation of Columbia MHC East, LLC dba Columbia Park Water and Sewer System and directs the Ohio Attorney General's office to take any appropriate steps to protect the customers of the company in the receivership proceeding pending in the Cuyahoga County Court of Common Pleas.

II. DISCUSSION

{¶ 2} Columbia MHC East, LLC dba Columbia Park Water and Sewer System (Columbia Park or Company) is a water and sewer company under R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} R.C. Chapter 4905 enumerates the general powers of this Commission over public utilities. Specifically, R.C. 4905.04 states, in relevant part:

> The public utilities commission is hereby vested with the power and jurisdiction to supervise and regulate public utilities and railroads [and] to require all public utilities to furnish their products and render all services exacted by the commission or by law * * *.

Additionally, R.C. 4905.06 grants the Commission general supervision over all public utilities within its statutory jurisdiction. This supervisory power encompasses the ability to examine a public utility and keep informed as to its general condition, capitalization, operation, and

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management with respect to the adequacy of its service and compliance with all laws and orders of the Commission.

{¶ 4} R.C. Chapter 4905 also sets forth certain statutory obligations of public utilities within the state. R.C. 4905.22, in pertinent part, provides:

> Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate and in all respects just and reasonable.

{¶ 5} On March 1, 2018, in Case No. CV-17-887110, the Cuyahoga County Court of Common Pleas issued an Order Appointing a Receiver in a proceeding filed by U.S. Bank, National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1, to appoint a receiver, M. Shapiro Real Estate Group Ohio, LLC, over all property, both real and personal, owned by Columbia Park East MHP LLC and Columbia Far West, LLC (collectively, Defendants). Under the terms of the Court's order, the appointed receiver is authorized, and directed to take and have complete and exclusive possession, control, and custody of the receivership property, to prevent waste, and to preserve, manage, secure, and safeguard the receivership property.

{¶ 6} In light of the appointment of the receiver by the Cuyahoga County Court of Common Pleas, the Commission finds it necessary to take steps to ensure that the interests of the Company's customers are fully protected and that such customers receive necessary and adequate service during the pendency of the court proceeding. Appropriate legal measures should be taken to ensure that the Company's operations are properly continued under the receivership and that there is continued service to the Company's customers. The Commission, therefore, directs the Ohio Attorney General's office to take any appropriate steps in the pending court proceeding and to seek any appropriate legal and equitable remedies, including injunctive relief, to maintain operations of the water and sewer systems and ensure that service to the customers is not interrupted or terminated.

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III. ORDER

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That the Ohio Attorney General's office seek any appropriate civil remedies for the protection of the Company's customers. It is, further,

{¶ 9} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

M. Beth Trombold

Thomas W. Johnson

Lawrence K. Friedeman

Daniel R. Conway

JRJ/sc

Entered in the Journal

MAR 14 2018

Barcy F. McNeal

Barcy F. McNeal
Secretary

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EXHIBIT D

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Columbia MHC East MHP LLC
1080 Pittsford-Victor Road #202
Pittsford, New York 14534
585-586-2828

E-MAIL = KBURNHAM@ROCHESTER.RR.COM

February 5, 2018

Brianne Workman
Division of Surface Water
2110 east Aurora Road
Twinsburg, Ohio 44087

RE: Letter of December 21, 2017

Dear Ms. Workman:

In response to your inquiry in Decenter, we hereby provide the required information.

The blowers providing air to the Aeromod unit have been repaired, and are back in operation.

The main pump station has been equipped with two functioning pumps as requested.

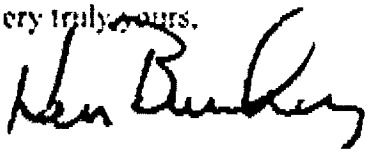
As you know, I have requested a PTI to install a trash trap, replace the pumps at the main pump station, and install a new force main to the treatment area. These requests have been rebuffed by your office in favor of a "comprehensive plan". That comprehensive plan has been slow in coming from Hess Engineering for unknown reasons.

I am now in possession of that plan, which I attach along with this letter to an e-mail to you.

We have always been ready willing and able to install this new equipment, and will install it once you issue us a PTI either for all, OR PART of the project.

The bypass pipe would be eliminated once installation was accomplished, and there would be three pumps on site, and on-line to handle the effluent from the project.

Very truly yours,



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Kenneth C. Burnham
Member

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EXHIBIT E

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Subject: RE: Columbia MHP - PTI #1218956

From: ghess@hess-engineering.com
To: Brianne.Workman@epa.ohio.gov; mtimas@hess-engineering.com
Cc: kburnham1452@yahoo.com
Date: Monday, August 6, 2018, 11:07:43 AM EDT

Thank You,

George "Chip" Hess II, P.E.

Hess & Associates Engineering, Inc.

12121 Kinsman Road

Newbury, Ohio 44065

440-564-8008

From: Brianne.Workman@epa.ohio.gov [mailto:Brianne.Workman@epa.ohio.gov]
Sent: Monday, August 6, 2018 10:39 AM
To: Mike Timas
Cc: George (Chip) Hess
Subject: RE: Columbia MHP - PTI #1218956

Mike,

The PTI application has been put on hold until the court determines who has legal authority to sign the application forms (i.e. the receiver or Mr. Burnham). Once that determination is made, we will proceed as necessary.

Respectfully,

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Brianne Workman

EXHIBIT F

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PUBLIC UTILITIES COMMISSION OF OHIO

Certificate of Public Convenience and Necessity

Certificate # 40
Case no. 01-2567-WS-ACE

A Certificate of Public Convenience and Necessity is Hereby Granted to;

COLUMBIA PARK WATER & SEWER SYSTEM, a waterworks company under the laws of Ohio, whose principal place of business is at 7100 Columbia Road, Olmstead Township, Ohio 44138, to maintain and operate a waterworks system. The Applicant provides water and wastewater service to a mobile home park which includes 1,039 units, a farm house, shopping center, medical building, trolley museum, and gas station in Olmstead Township, Cuyahoga County, Ohio, and which is more specifically shown in the two maps attached to this certificate.

Issued pursuant to Case No. 01-2567-WS-ACE, Finding and Order signed February 4, 2004.

Subject to all rules and regulations of the Commission, now existing or hereafter promulgated.

Witness the seal of the Commission affixed at Columbus, Ohio

Dated: November 16, 2004

By Order of
PUBLIC UTILITIES COMMISSION OF OHIO

Renee' J. Jenkins, Secretary

This is to certify that the images appearing are an accurate and complete reproduction of a case document delivered in the regular course of business
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PUBLIC UTILITIES COMMISSION OF OHIO

Certificate of Public Convenience and Necessity

Certificate # 43
Case no. 01-2567-WS-ACE

A Certificate of Public Convenience and Necessity is Hereby Granted to;

COLUMBIA PARK WATER & SEWER SYSTEM, a sewage disposal company under the laws of Ohio, whose principal place of business is at 7100 Columbia Road, Olmstead Township, Ohio 44138, to maintain and operate a sewage disposal system. The Applicant provides water and wastewater service to a mobile home park which includes 1,039 units, a farm house, shopping center, medical building, trolley museum, and gas station in Olmstead Township, Cuyahoga County, Ohio, and which is more specifically shown in the two maps attached to this certificate.

Issued pursuant to Case No. 01-2567-WS-ACE, Finding and Order signed February 4, 2004.

Subject to all rules and regulations of the Commission, now existing or hereafter promulgated.

Witness the seal of the Commission affixed at Columbus, Ohio

Dated: November 16, 2004

By Order of
PUBLIC UTILITIES COMMISSION OF OHIO

Renee' J. Jenkins, Secretary

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OhioEPA
State of Ohio Environmental Protection Agency

STREET ADDRESS:
Lazarus Government Center
122 S. Front Street
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

July 5, 2001

Re: NPDES Permit Transfer
Ohio EPA Permit No. 3PV00013*CD
Application No. OH0044741

Columbia MHC East, LLC
Columbia Mobile Home Park
642 Kreag Road
Pittsford, NY 14535

Ladies and Gentlemen:

Ohio EPA has received a notice of intent to transfer the above permit. Pursuant to Ohio Revised Code 6111.03(J) and Ohio Administrative Code 3745-33-08, the proposed transfer of the Ohio National Pollutant Discharge Elimination System permit is hereby approved. In accordance with the terms and conditions conveyed in the agreement to transfer the permit, the effective date of the transfer shall be June 26, 2001

Columbia Mobile MHC East, LLC, the permittee, shall assume all responsibility, coverage, and liability specified in the permit.

Sincerely,

Christopher Jones
Director

CJ/dks

CERTIFIED MAIL

cc: Northeast District Office
S. Kemper, Enforcement
R. Bell, NEDO-DSW
Trailer Mart Inc.
Columbia West Investors, LC
Rd Meyers, Arter & Hadden LLP
Philip M. Silver, Silver & Feldman
Journal Room
File

EXHIBIT
tabbies
B

SCHEDULE III

ORGANIZATIONAL MATTERS

A. **Borrower's Organizational Structure**.

[Insert Org. Chart or Attach]

B. **Organizational Information**. **(Borrower and each Borrower Party).**

[ISSUE SPOTTER: Additional information may be required for foreign entities. Consult with in-house counsel.]

Legal Name*	State of Incorporation or Organization	Type of Entity	State Organization ID No.**	Federal Tax ID No.
1. Columbia Park East MHP LLC	Delaware	limited liability company	4338752	
2. Columbia MHC East, LLC	New York	limited liability company	N/A	
3. Columbia Far West, LLC	Delaware	limited liability company	4338748	
4. Columbia West Investors, LC	Virginia	limited liability company	S017200-7	
4. Palace Communities, LC	Virginia	limited liability company	S066612-5	
5. MHP Acquirers, LLC	New York	limited liability company	N/A	
6. Columbia SPE, Inc.	New York	corporation	N/A	
7. Robert C. Morgan				
8. George DaGraca				
9. James A. Martin				
10. Kenneth C. Burnham				
11. Steven J. Gordon				
12. Richard B. Kellam				
13. Robyn Morgan				
14. Herbert Morgan				

* As it appears in official filings in the state of its incorporation or organization.
**If none issued by applicable state of organization/incorporation, insert "none issued."

C. **Location Information**.

1. Borrower:
   a. Chief Executive Office: 70 Old Stonefield Way
   Pittsford, New York 14534
   Telephone No.: 585/424-2828

   b. Location of any prior Chief Executive Office (during last 5 years): _____
   _____
   _____

EXHIBIT
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c. Other Office Location: _____

_____

_____

d. Location of Collateral: At the Project and _____

_____

_____

2. Borrower Parties (Chief Executive Office):

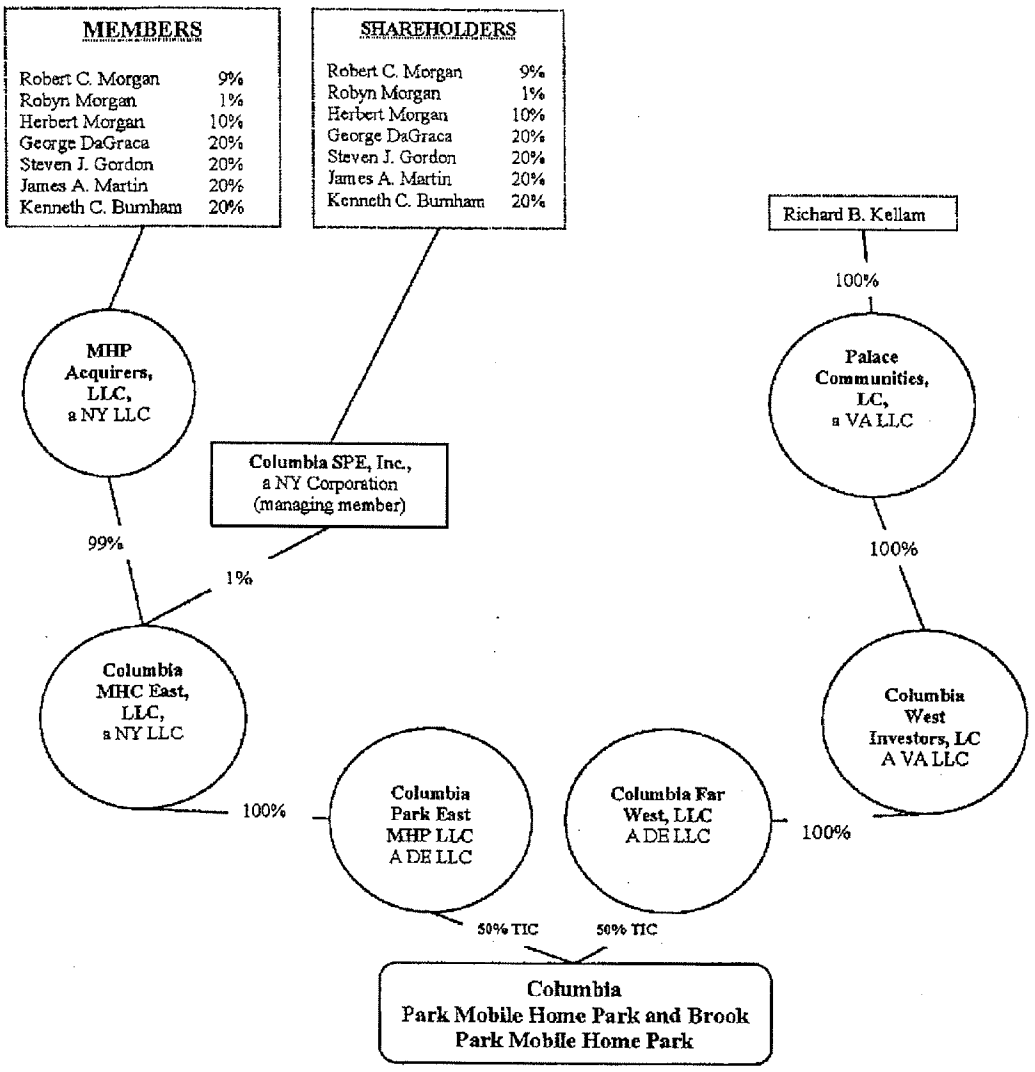
a. Columbia MHC East, LLC: 70 Old Stonefield Way
Pittsford, New York 14534
Telephone No.: 585/424-2828

b. Columbia SPE, Inc.: 70 Old Stonefield Way
Pittsford, New York 14534
Telephone No.: 585/424-2828

c. Palace Communities, LC: 70 Old Stonefield Way
Pittsford, New York 14534
Telephone No.: 585/424-2828

d. MHP Acquirers, LLC: 70 Old Stonefield Way
Pittsford, New York 14534
Telephone No.: 585/424-2828

POST CLOSING COLUMBIA/BROOK PARK
APRIL 30, 2007



Columbia Park Water/Sewer System
7100 Columbia Road
Olmstead Township, Ohio 44138
440-235-5300 Local Office
716-586-2828 New York Office
716-586-8582 (Fax)

RECEIVED
OCT 3 2001
DOCKETING DIVISION
PUCO

September 24, 2001

Sue Daly
Public Utilities Commission of Ohio
180 East Broad St.
Columbus, Ohio 43215

01-2567-WS-ACE
89-7049-WS-TRF

RE: Certificate of Public Convenience and Necessity

Dear Ms. Daly;

Please find enclosed our application for Certificate of Public Convenience and Necessity and Approval of Rates for Columbia Park Water/Sewer system, wholly owned by Columbia MHC East LLC.

Columbia MHC East LLC. purchased the 1096 unit mobile home park, and shopping center in July 2001. In addition a medical building and gas station rely on the water and sewer plant which are the subject of this application.

The overriding motivation for this application is to comply with current PUCO regulations. In addition to the mobile home park, the water and sewer system at Columbia Park currently services a shopping center, medical building, trolley museum, and gas station.

Rates are proposed such that current operating costs are covered and an 8.0% return on the depreciated value of the plant in service is returned to the investors.

Please let me know what additional steps I might be taking at this time in order to facilitate your review of this application..

Sincerely,

Kenneth C. Burnham
Member

EXHIBIT
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Before
The Public Utilities Commission of Ohio

In the Matter of the Application of Columbia MHC East, LLC d/b/a Columbia Park Water/Se
For a "Certificate of Public Convenience and Necessity" for a waterworks company and/or sewage Systen
disposal system company in the Olmstead (Area) county of Cuyahoga.

Applicant respectfully states:

(A) That ~~he/she~~ (it) is (an individual, a partnership, or a ~~corporation~~ LLC) and proposes to engage in the business of constructing, maintaining, and operating a waterworks system and/or sewage disposal system rendering service in the area or areas in Olmstead townships in Cuyahoga counties, Ohio as shown and delineated on the attached plat or map.

the applicant has, will have, its principal place of business (main office) at
642 Kreag Road
(street)
Pittsford, NY 14534
(village or city)
Monroe NY
(county) (state)

It has, will have, a branch office at
7100 Columbia Road
(street)
Olmstead Township
(village or city)
Cuyahoga OH 44138
(county) (state)

at which office customers may make requests for service, pay bills, file complaints, and transact any business they may have with the company as fully as they could do so at the company's main office.

(B) That applicant is making application for a "Certificate of Public Convenience and Necessity" to operate a waterworks system and/or sewage disposal system pursuant to section 4933.25 of the Revised Code.

(C) That exhibits, as required by rule 4901:1-15-05 of the Administrative Code, are furnished with, and made a part of this application for one or more certificates to construct, operate, and maintain a waterworks system and/or sewage disposal system. If a hearing is held, All the exhibits will be identified and substantiated at the hearing by a qualified witness who will state under oath that all or part of the exhibits were prepared by him/her or under his/her supervision and direction, and that the data contained in the exhibits are true and factual to the best of his/her knowledge and belief.

(D) That a statement is included in the application describing the public convenience to be served by means of granting a "Certificate of Public Convenience and Necessity" to applicant.

(E) Therefore, applicant requests that a "Certificate of Public Convenience and Necessity" be granted applicant to construct and to operate a waterworks company and/or sewage disposal system company.

&

Applicant or Attorney for Applicant

70 Old Stonefield Way
Pittsford, NY 14534

COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

DESCRIPTION OF PUBLIC CONVENIENCE TO BE SERVED

The Columbia Park water and sewer plant has been in service for many years, and was developed starting in the 1950's to satisfy the demand generated from a 55+ age mobile home park known as Columbia Park. The address of the system is at 7100 Columbia Road, Olmstead Township, Ohio. The mobile home park has grown to 1,060 units as of September 2001, with an additional 36 lots completed for a final built out total of 1,096. In addition to these residential customers the water and sewer plant services a shopping center, medical building, trolley museum, and gas station. Usage by these additional customers is primarily residential in nature.

Water is drawn from the City of Cleveland Division of Water and distributed through the current private facilities to the above referenced properties.

The sewer plant has a 250,000 gal/day capacity and services these properties through the privately owned collection system.

There is a present and continuing need for the existing plant to continue to provide service in the areas it has serviced for many years. There are 1,096 senior citizens who presently are served by this system and rely on it for the continuing habitability of their premises. In addition tenants of the shopping plaza, medical building, and gas station, also rely on this system. There are no other alternatives existing or planned in the area.

When the mobile home park and shopping center were purchased by Columbia East MHC LLC (the Applicant here), it was agreed that these new owners would apply for a Certificate of Public Convenience and Necessity, in order that the system would be in compliance with all PUCO Rules and Regulations, and continue to service the area.

The PUBLIC CONVENIENCE will be served to have the existing plant continue to provide service in the areas it has serviced for many years at rates which will be sufficient to cover current operating costs, and offer a reasonable return to its investors. The PUBLIC CONVENIENCE will also be served to have the existing facilities comply with current PUCO rules and regulations

A copy of this filing has been served upon the OEPA at Columbus, Ohio

COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

EXHIBIT 1

The sole shareholder of Columbia Park Water & Sewer System is Columbia East MHC, LLC, which is a New York State LLC licensed to transact business in Ohio. The sole shareholder of Columbia East MHC, LLC is MHP Acquirers, LLC, is a New York State LLC. The shareholders of MHP Acquirers, LLC are as follows;

There are less than 10 shareholders in the LLC.

Shareholder	Address	Percent ownership
Kenneth Burnham	70 Old Stonefield Way, Pittsford, NY 14534	20%
Robert Morgan	7 Chelsea Park, Pittsford, NY 14534	20%
Steven Gordon	150 Buckland Ave., Rochester, NY 14618	20%
James Martin	87 Sycamore Ridge, Honeoye Falls, NY 14472	20%
George DaGraca	43 Misty Pines, Fairport, NY 14450	20%

All of the above individuals are Members with equal authority to bind and/or act on behalf of MHP Acquirers, LLC.

Disclosure of interests in other water works and/or sewage disposal system;

Kenneth Burnham, Steven Gordon, James Martin, and George DaGraca have any interest as unit holders and Members of Royal Palms MHP, LLC, d/b/a Royal Palms Water and Sewer system. This water works and sewage disposal system is a regulated public utility in the State of North Carolina, serving 191 residential units with both water and sewer service.

No other person, firm or corporation purports to guarantee the obligations of the applicant, and no developer is involved in the area where the Certificate of Public Convenience and Necessity is proposed.

COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

EXHIBIT 2

Corporate papers, D/B/A & Certificate of authority to transact business in Ohio

The sole shareholder of Columbia Park Water & Sewer System is Columbia East MHC, LLC, which is a New York State LLC licensed to transact business in Ohio. The sole shareholder of Columbia East MHC, LLC is MHP Acquirers, LLC, is a New York State LLC.

Applicant hereby certified that thus Exhibit 2 is a true and accurate copy of the organization documents and Certificate of Authority to transact business in Ohio.

(1)

CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY - 14
DEED 05/03/2007 10:47:40 AM
200705030084

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS THAT, **COLUMBIA MHC EAST, LLC** and **COLUMBIA WEST INVESTORS, LC** of 642 Kreag Road, Pittsford, New York 14534, jointly and severally, the Grantors, who claim title by or through the instrument filed for record June 26, 2001 in Instrument Nos. 200106260771 and 200106260772 in the County Recorder's Office in Cuyahoga County, State of Ohio, for the consideration of Ten Dollars ($10.00), and other valuable consideration received to their full satisfaction of: **COLUMBIA PARK EAST MHP LLC**, whose tax mailing address is 1170 Pittsford Victor Road, Pittsford, New York 14534 and **COLUMBIA FAR WEST, LLC**, whose tax mailing address is 484 Viking Drive, Suite 105, Virginia Beach, Virginia 23452, jointly and severally, the Grantee, do give, grant, bargain, sell, and convey unto the said Grantee, its successors and assigns, the premises described on Exhibit A which is attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, its successors and assigns, forever; and,

Grantors do for themselves and their heirs and assigns, covenant with the said Grantee, its successors and assigns, that at and until the execution of these presents, they are well seized of the above-described premises, have a good and indefeasible estate in Fee Simple, and have good right to bargain and sell the same in manner and form as above written, and the same is free from all encumbrances whatsoever, save and except building and use restrictions, easements and rights of way of record, if any, zoning and other governmental regulations, and real estate taxes and assessments, if any, both general and special, to be prorated to the date of closing, and that they will warrant and defend said premises, with the appurtenances thereunto belonging, to the said Grantee, its successors and assigns, against all lawful claims and demands whatsoever subject to the above noted exceptions.

EXHIBIT
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IN WITNESS WHEREOF, Grantors have hereunto set their hands, this 26th day of April, 2007.

COLUMBIA MHC EAST, LLC
By: MHP ACQUIRERS, LLC
Sole Member of Columbia MHC East, LLC

By: _____
Robert C. Morgan, Member

STATE of New York)
) ss:
COUNTY of Monroe)

The foregoing instrument was acknowledged before me, a Notary Public, in and for said County and State by Robert C. Morgan, who stated that the signing of this instrument is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Fairport, this 27th day of April, 2007.

Kyle L. DiStefano
Notary Public

KYLE L. DISTEFANO
Notary Public, State of New York
County of Monroe, Reg#01DI6028169
Commission Expires July 26, 2009

COLUMBIA WEST INVESTORS, LC
By: COMPANY MANAGER, LC
Manager of Columbia West Investors, LC

By: _____
R. Braxton Hill, III, Manager

STATE of Virginia)
) ss:
COUNTY of Virginia Beach)

The foregoing instrument was acknowledged before me, a Notary Public, in and for said County and State by R. Braxton Hill, III, who stated that the signing of this instrument is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Virginia Beach, VA, this 30 day of April, 2007.

_____
Notary Public

Embossed Hereon is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires July 31, 2008
REBEKAH ROACH

This instrument prepared by:

Fix Spindelman Brovitz & Goldman, P.C.
295 Woodcliff Drive, Suite 200
Fairport, New York 14450
(BJF)

EXHIBIT A

Parcel No. 1 (Columbia Trailer Park)

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

1. Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

2. Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

3. Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

4. Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

5. Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

6. Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

7. Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

8. Thence South 00 deg. 41' 40" East, 832.41 ft. to a corner;

9. Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

10. Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

11. Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

12. Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

13. Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

14. Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

15. Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

16. Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

17. Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

18. Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

19. Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

20. Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

21. Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

22. Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

23. Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

24. Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

25. Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

26. Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 80 ft. wide;

27. Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

28. Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

29. Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

30. Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

31. Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

32. Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

33. Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

34. Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

35. Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 80 ft. wide;

36. Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

37. Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

38. Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

39. Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

40. Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

41. Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

42. Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

43. Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

44. Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

45. Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

46. Thence South 00 deg. 28' 00" East, 144.08 ft. to a point;

47. Thence North 89 deg. 27' 10" East, 231.71 ft. to a point;

48. Thence South 53 deg. 22' 33" West, 217.76 ft. to a point;

49. Thence South 01 deg. 44' 34" East, 145.00 ft. to a point;

50. Thence South 43 deg. 30' 43" West, 56.32 ft. to a point;

51. Thence South 88 deg. 46' 00" West, 105.00 ft. to a point;

52. Thence South 01 deg. 44' 34" East, 387.90 ft. to the point of beginning and containing 212.3638 acres of land, according to a survey by Eric Nelson, Registered Ohio Surveyor No. 7348 on January 17, 2000, be the same more or less, but subject to all legal highways.

Parcel No. 2 (Columbia Shops)
Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, at a point distant North 01 deg. 44' 34" West, 235.00 ft. therefrom from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' 00" West, 340.00 ft. to a point;

Thence South 01 deg. 44' 34" East, 65.00 ft., parallel with said centerline of Columbia Road to a point;

Thence South 88 deg. 46' 00" West, 175.00 ft. to a point;

Thence North 01 deg. 44' 34" West, 215.00 ft., parallel with said centerline of Columbia Road to a point;

Thence North 88 deg. 46' 00" East, 105.00 ft. to a point;

Thence North 43 deg. 30' 43" East, 56.32 ft. to a point;

Thence North 01 deg. 44' 34" West, 145.00 ft. parallel with said centerline of Columbia Road to a point;

Thence North 53 deg. 22' 23" East, 217.76 ft. to a point;

Thence North 89 deg. 27' 10" East, 191.39 ft. to a point in said centerline of Columbia Road;

Thence South 01 deg. 44' 34" East, 458.83 ft. to the place of beginning containing 4.4318 acres of land according to a survey in December 1991 by Giles Nelson, Ohio Surveyor No. 4630, be the same more or less, but subject to all legal highways.

And further known as being Parcel No. 4 in the Subdivision Plat of Trailer Mart, Inc. as shown by the recorded plat in Volume 266 of Maps, Page 64 of Cuyahoga County Records.

Parcel No. 3 (Lift Station Easement)

A Non-exclusive Easement for the purpose of construction, erection, placement, maintenance and alteration of a sanitary sewer lift station and pump station, as established by instrument recorded in Volume 86-7223, Page 17 of Cuyahoga County Records, and assigned in Cuyahoga County Auditors File Number 200106260775, over the following parcel of land, bounded and described as follows:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio, being known as part of Lot 5, Tract 5 in said Olmsted Township, and more definitely described as follows:

Beginning at the intersection of the centerline of Columbia Road and the line between Olmsted Township Tracts 5 and 7;

Thence South 01 deg. 04' 57" West in the centerline of Columbia Road, a distance of 365.00 ft. to a point;

Thence North 89 deg. 36' 58" West, a distance of 291.00 ft. to a point, said point is the principal place of beginning;

Thence continuing North 89 deg. 36' 58" West, a distance of 15.00 ft. to a point;

Thence South 01 deg. 04' 57" West, a distance of 110.00 ft. to a point;

Thence South 89 deg. 36' 58" East, a distance of 15.00 ft. to a point;

Thence North 01 deg. 04' 57" East, a distance of 110.00 ft. to the principal place of beginning be the same more or less, but subject to all legal highways.

Parcel No. 4 (Parkway Dr. Easement)

A Non-exclusive Easement for ingress and egress, encroachments and utilities appurtenant to Parcel 1, as established by instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records and amended by instrument recorded as Cuyahoga County Auditor's File Number 200106260770 over the following described property:

Situated in the Township Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, distant North 01 deg. 44' 34" West 160.00 ft. from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' West, 515.00 ft. to a point in an Easterly line of parcel 8 described in instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records;

Thence North 01 deg. 44' 34" West, 60 ft. along said Easterly line of Parcel No. 8 to a point;

Thence North 88 deg. 46' East, 515.00 ft. to a point in said center line of Columbia Road;

Thence South 01 deg. 44' 34" East, 60.00 ft. to the place of beginning containing 0.7094 acres of land be the same more or less but subject to all legal highways.

Parcel No. 5 (Easement for carport and asphalt drive)

A Non-exclusive Easement for carport and asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Auditors File Number 200106260776 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 204.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 0' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 62.11 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 47.20 ft. to a point;

Thence South 01 deg. 21' 10" East, 90.07 ft. to a point;

Thence South 88 deg. 38' 50" West, 47.20 ft. to a point;

Thence North 01 deg. 21' 10" West, 90.07 ft. to the principal place of beginning and containing 0.0976 acres of land (4,251 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 6 (Easement for asphalt drive)

A Non-exclusive Easement for asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Auditors File Number 200106260777 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to point;

Thence North 00 deg. 41' 21" West, 381.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.08 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to e point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 246.62 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 35.58 ft. to a point;

Thence South 01 deg. 21' 10" East, 188.17 ft. to a point;

Thence South 88 deg. 38' 50" West, 35.58 ft. to a point;

Thence North 01 deg. 21' 10" West, 186.17 ft. to the principal place of beginning and containing 0.1521 acres of land (6,625 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 7 (Easement for manufactured homes)

A Non-exclusive Easement for manufactured homes appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Auditor's File Number 200106260778 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 515.00 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

Thence South 01 deg. 28' 00" East, 92.46 ft. to the principal point of beginning of the premises herein described;

Thence South 55 deg. 52' 41" East, 90.75 ft. to a point;

Thence South 89 deg. 27' 10" West, 74.71 ft. to a point;

Thence North 00 deg. 28' 00" West, 51.62 ft. to the principal place of beginning and containing 0.0443 acres of land (1,930 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 8 (Cleveland trailor park)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original

Order No. : 1100718377
Loan No.:

Rockport Township Section No. 1 and bounded and described as follows:.
Beginning on the centerline of Brookpark Road, S.W., (100 ft. wide), at the Southeasterly corner of said Original Rockport Township Section No. 1;

Thence South 89 deg. 03' 00" West, along the centerline of Brookpark Road, S.W., 429.11 ft. to the Southeasterly corner of land conveyed to The S.C.K. Corporation, by deed dated May 12, 1954 and recorded in Volume 8043, Page 722 of Cuyahoga County Records;

Thence North 00 deg. 32' 30" West, along the Easterly line of land so conveyed to The S.C.K. Corporation, 1120.97 ft. to the southerly line of Parcel No. 1 of land conveyed to The New York Central Railroad Co. by deed dated October 17, 1946 and recorded in Volume 6235, Page 526 of Cuyahoga County Records;

Thence South 89 deg. 46' 10" East, along the Southerly line of the first parcel of land so conveyed, 429.13 ft. to the easterly line of said Original Rockport Township Section No. 1;

Thence South 00 deg. 32' 30" East, along the easterly line of said Section No. 1, 1112.38 ft. to the place of beginning, be the same more or less, but subject to all legal highways.

ROBERT KLAIBER P.E., P.S.
Legal Description complies with Cuyahoga County Conveyance Standards and is approved for transfer

MAY 03 2007

Agent

Permanent Parcel #: 020-23-003
262-11-001
262-14-050

262-18-700A
262-18-701A
262-18-702A

Add.PPN: 262-18-703A
262-18-704A
262-18-705A

Type Instrument: Warranty Deed
Tax District #: 3100
Grantor: Columbia West Invest Llc &
Grantee: Columbia West Invest Llc &
Balance Assumed: $ 0.00
Total Consideration: $ 0.00
Conv. Fee Paid: $ 0.00
Transfer Fee Paid: $ 4.50
Fee Paid by: Barristers Title Agency
Exempt Code:

Date: 5/3/2007 10:39:00 AM
Tax List Year: 2007
Land Use Code: 4150
Land Value: 594,900
Building Value: 467,600
Total Value 1,062,500
Arms Length Sale: NO
Rcpt
Inst # 284683
Check #

Frank Russo
CUYAHOGA COUNTY AUDITOR

Frank Russo
CUYAHOGA COUNTY AUDITOR

Application No. OH0044741

Issue Date: May 22, 2013

Effective Date: July 1, 2013

Expiration Date: June 30, 2018

Ohio Environmental Protection Agency
Authorization to Discharge Under the
National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq., hereinafter referred to as the "Act"), and the Ohio Water Pollution Control Act (Ohio Revised Code Section 6111),

Columbia MHC East, LLC

is authorized by the Ohio Environmental Protection Agency, hereinafter referred to as "Ohio EPA," to discharge from the Columbia Park wastewater treatment works located at 7100 Columbia Rd., Olmsted Township, Ohio, Cuyahoga County and discharging to the West Branch of the Rocky River via an unnamed tributary in accordance with the conditions specified in Parts I, II, and III of this permit.

This permit is conditioned upon payment of applicable fees as required by Section 3745.11 of the Ohio Revised Code.

This permit and the authorization to discharge shall expire at midnight on the expiration date shown above. In order to receive authorization to discharge beyond the above date of expiration, the permittee shall submit such information and forms as are required by the Ohio EPA no later than 180 days prior to the above date of expiration.

Scott J. Nally
Director

Total Pages: 29

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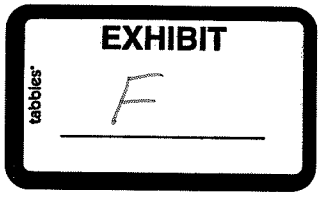

Part I, A. - INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this permit and lasting until April 30, 2014, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 3PV00013001. See Part II, OTHER REQUIREMENTS. for locations of effluent sampling.

Table - Final Outfall - 001 - Interim

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Day	Maximum Indicating Thermometer	All
00300 - Dissolved Oxygen - mg/l	-	5.0	-	-	-	-	-	1/Day	Grab	All
00400 - pH - S.U.	9.0	6.5	-	-	-	-	-	1/Day	Grab	All
00530 - Total Suspended Solids - mg/l	-	-	18	12	-	17.0	11.4	2/Week	24hr Composite	All
00552 - Oil and Grease, Hexane Extr Method - mg/l	10	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	6.0	4.0	-	5.7	3.8	2/Week	24hr Composite	Winter
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	2.3	1.5	-	2.2	1.4	2/Week	24hr Composite	Summer
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1 / 2 Weeks	24hr Composite	All
00719 - Cyanide, Free - mg/l	-	-	-	-	-	-	-	1/Year	Grab	September
01074 - Nickel, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01094 - Zinc, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01113 - Cadmium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01114 - Lead, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01118 - Chromium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01119 - Copper, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01220 - Chromium, Dissolved Hexavalent - ug/l	-	-	-	-	-	-	-	1/Year	Grab	September

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Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
31616 - Fecal Coliform - #/100 ml	-	-	2000	1000	-	-	-	2/Week	Grab	Summer
31648 - E. coli - #/100 ml	-	-	-	-	-	-	-	2/Week	Grab	Summer
50050 - Flow Rate - MGD	-	-	-	-	-	-	-	1/Day	Continuous	All
50060 - Chlorine, Total Residual - mg/l	0.019	-	-	-	-	-	-	1/Day	Grab	Summer
50092 - Mercury, Total (Low Level) - ng/l	-	-	-	-	-	-	-	1/Year	Grab	September
70300 - Residue, Total Filterable - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
80082 - CBOD 5 day - mg/l	-	-	15	10	-	14.2	9.5	2/Week	24hr Composite	All

Notes for Station Number 3PV00013001:

* Effluent loadings based on average design flow of 0.250 MGD.
- Total residual chlorine - See Part II, Item G.
- E.Coli - See Schedule of Compliance.

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Part I. A. - FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on May 1, 2014 and lasting until the expiration date, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 3PV00013001. See Part II, OTHER REQUIREMENTS, for locations of effluent sampling.

Table - Final Outfall - 001 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Day	Maximum Indicating Thermometer	All
00300 - Dissolved Oxygen - mg/l	-	5.0	-	-	-	-	-	1/Day	Grab	All
00400 - pH - S.U.	9.0	6.5	-	-	-	-	-	1/Day	Grab	All
00530 - Total Suspended Solids - mg/l	-	-	18	12	-	17.0	11.4	2/Week	24hr Composite	All
00552 - Oil and Grease, Hexane Extr Method - mg/l	10	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	6.0	4.0	-	5.7	3.8	2/Week	24hr Composite	Winter
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	2.3	1.5	-	2.2	1.4	2/Week	24hr Composite	Summer
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1 / 2 Weeks	24hr Composite	All
00719 - Cyanide, Free - mg/l	-	-	-	-	-	-	-	1/Year	Grab	September
01074 - Nickel, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01094 - Zinc, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01113 - Cadmium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01114 - Lead, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01118 - Chromium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01119 - Copper, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01220 - Chromium, Dissolved Hexavalent - ug/l	-	-	-	-	-	-	-	1/Year	Grab	September

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Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
31648 - E. coli - #/100 ml	-	-	284	126	-	-	-	2/Week	Grab	Summer
50050 - Flow Rate - MGD	-	-	-	-	-	-	-	1/Day	Continuous	All
50060 - Chlorine, Total Residual - mg/l	0.019	-	-	-	-	-	-	1/Day	Grab	Summer
50092 - Mercury, Total (Low Level) - ng/l	-	-	-	-	-	-	-	1/Year	Grab	September
70300 - Residue, Total Filterable - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
80082 - CBOD 5 day - mg/l	-	-	15	10	-	14.2	9.5	2/Week	24hr Composite	All

Notes for Station Number 3PV00013001:

* Effluent loadings based on average design flow of 0.250 MGD.
- Total residual chlorine - See Part II, Item G.
- E.Coli - See Schedule of Compliance.

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Part I. B. - SLUDGE MONITORING REQUIREMENTS

1. Sludge Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the treatment works' final sludge at Station Number 3PV00013586, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sludge sampling.

Table - Sludge Monitoring - 586 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
51129 - Sludge Fee Weight - dry tons	-	-	-	-	-	-	-	1/Year	Total	December

Notes for Station Number 3PV00013586:

- Monitoring is required when sewage sludge is removed from the permittee's facility for disposal in a mixed solid waste landfill. The total Sludge Fee Weight of sewage sludge disposed of in a mixed solid waste landfill for the entire year shall be reported on the December Discharge Monitoring Report (DMR).

- If no sewage sludge is removed from the Permittee's facility for disposal in a mixed solid waste landfill during the year:
1) eDMR users should select the "No Discharge" check box on the data entry form. PIN the eDMR.
2) Permittees reporting on paper should report "AL" in the first column of the first day of December on the 4500 Form. Sign the form.

- Sludge fee weight means sludge weight, in dry U.S. tons, excluding any admixtures such as liming material or bulking agents.

- See Part II. H and I.

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Part I. B. - SLUDGE MONITORING REQUIREMENTS

I. Sludge Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the treatment works' final sludge at Station Number 3PV00013588, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sludge sampling.

Table - Sludge Monitoring - 588 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
70316 - Sludge Weight - Dry Tons	-	-	-	-	-	-	-	1/Year	Total	December

Notes for Station Number 3PV00013588:

- Monitoring is required when sludge is removed from the Permittee's facility for transfer to another NPDES permit holder. The total sludge weight transferred to another NPDES permit holder for the entire year shall be reported on the December Discharge Monitoring Report (DMR).

- If no sewage sludge is removed from the Permittee's facility for transfer to another NPDES permit holder during the year:
1) eDMR users should select the "No Discharge" check box on the data entry form. PIN the eDMR.
2) Permittees reporting on paper should report "AL" in the first column of the first day of December on the 4500 Form. Sign the form.

- Sludge weight is a calculated total for the year. To convert from gallons of liquid sewage sludge to dry tons of sewage sludge: dry tons= gallons x 8.34 (lbs/gallon) x 0.0005 (tons/lb) x decimal fraction total solids.

- See Part II, H and I.

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Part I, B. - INFLUENT MONITORING REQUIREMENTS

1. Influent Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date, the permittee shall monitor the treatment works' influent wastewater at Station Number 3PV00013601, and report to the Ohio EPA in accordance with the following table. Samples of influent used for determination of net values or percent removal must be taken the same day as those samples of effluent used for that determination. See Part II, OTHER REQUIREMENTS, for location of influent sampling.

Table - Influent Monitoring - 601 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00400 - pH - S.U.	-	-	-	-	-	-	-	1/Day	Grab	All
00530 - Total Suspended Solids - mg/l	-	-	-	-	-	-	-	2/Week	24hr Composite	All
80082 - CBOD 5 day - mg/l	-	-	-	-	-	-	-	2/Week	24hr Composite	All

Notes for Station Number 3PV00013601:

- Sampling for the respective parameters shall be performed on the same day as for Station 3PV00013001.

- If there is no automatic sampler, composite samples shall be comprised of a minimum of three grab samples proportionate in volume to the sewage flow rate at the time of sampling and collected at intervals of at least 30 minutes but not more than 2 hours during the period that the plant is staffed on each day for sampling.

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Part I. B. - UPSTREAM MONITORING REQUIREMENTS

1. Upstream Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the receiving stream, upstream of the point of discharge at Station Number 3PV00013801, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sampling.

Table - Upstream Monitoring - 801 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Month	Grab	All
00300 - Dissolved Oxygen - mg/l	-	-	-	-	-	-	-	1/Month	Grab	All
00400 - pH - S.U.	-	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
31648 - E. coli - #/100 ml	-	-	-	-	-	-	-	1/Quarter	Grab	Summer-Qtrly

Notes for Station Number 3PV00013801:
- Sampling for the respective parameters shall be performed on the same day as for Station 3PV00013001.

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Part I, B. - DOWNSTREAM-NEARFIELD MONITORING REQUIREMENTS

1. Downstream-Nearfield Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the receiving stream, downstream of the point of discharge, at Station Number 3PV00013901, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sampling.

Table - Downstream-Nearfield Monitoring - 901 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Month	Grab	All
00300 - Dissolved Oxygen - mg/l	-	-	-	-	-	-	-	1/Month	Grab	All
00400 - pH - S.U.	-	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00900 - Hardness, Total (CaCO3) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
31648 - E. coli - #/100 ml	-	-	-	-	-	-	-	1/Quarter	Grab	Summer-Qtrly

Notes for Station Number 3PV00013901:
- Sampling for the respective parameters shall be performed on the same day as for Station 3PV00013001.

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Part I, C - Schedule of Compliance

1. Sanitary Sewer System Infiltration and Inflow (I/I)/Bypasses

The collection system receives excessive infiltration and inflow (I/I) which results in one or more of the following: collection system overflows; surcharging of sewers; hydraulic overloading of lift stations; sewage flows at the treatment plant that that cause poor treatment plant performance or result in plant bypasses. All sewage flow must be collected, transported to the treatment plant, and properly treated prior to discharge.

The permittee shall undertake the following actions:

a. The permittee shall conduct a comprehensive analysis of all feasible alternatives necessary to eliminate the tertiary sand filter bypass at the treatment plant and any overflows in the collection system. This analysis shall address and evaluate the following:

i. Inflow/infiltration reduction within the collection system;

ii. Additional wastewater storage and flow equalization;

iii. Providing additional secondary treatment capacity which includes an analysis of constructing additional secondary capacity as well as an analysis of process changes to enhance secondary treatment capacity;

iv. The analysis shall also evaluate methods that will enhance the treatment of any bypassed flow;

v. Costs associated with the respective alternatives;

vi. A fixed-date schedule for implementation of necessary improvements (if required) in the collection system and/or the treatment plant;

b. The permittee shall submit the comprehensive analysis evaluation listed in Item a. above as soon as possible, but no later that 6 months from the effective date of this NPDES permit.

c. Within 30 days of notification of review and acceptance by Ohio EPA, the permittee shall implement the recommendations of the evaluation. The permittee shall respond to any deficiencies in the evaluation noted by Ohio EPA within 30 days.

d. The permittee shall submit annual status reports towards implementation of the evaluation approved under Item c.

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2. Escherichia (E.) coli Monitoring and Limits:

1. The permittee shall evaluate the ability of its existing treatment facilities to meet the final effluent limits for E. coli at Outfall 3PV00013001.

2. Within 6 months from the effective date of this permit, the permittee shall submit to the Ohio EPA District Office a brief status report on the ability of its existing treatment facilities to meet the final effluent limits for E. coli. If the permittee determines that its existing treatment facilities are not capable of meeting the final effluent limits for E. coli, the permittee shall submit an approvable Permit To Install (PTI) application for plant improvements necessary to meet the final effluent limits for E. coli.

3. Not later than 12 Months from the effective date of this permit, the permittee shall achieve the final effluent limits for E. coli at outfall 3PV00013001.

4. The permittee shall notify the Ohio EPA Northeast District Office in writing within 7 days of achieving compliance with the final effluent limit for E. coli.

See Part III, Item 12. - Noncompliance Notification

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Part II, Other Requirements

A. Operator Certification Requirements

1. Classification

a. In accordance with Ohio Administrative Code 3745-7-04, the sewage treatment facility at this facility shall be classified as a Class II facility.

b. All sewerage (collection) systems that are tributary to this treatment works are Class II sewerage systems in accordance with paragraph (B)(1)(a) of rule 3745-7-04 of the Ohio Administrative Code.

B. Operator of Record

1. The permittee shall designate one or more operator of record to oversee the technical operation of the treatment works and sewerage (collection) system in accordance with paragraph (A)(2) of rule 3745-7-02 of the Ohio Administrative Code.

2. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the treatment works as defined in Part II, Item A.1 of this NPDES permit.

3. Within three days of a change in an operator of record, the permittee shall notify the Director of the Ohio EPA of any such change on a form acceptable to Ohio EPA. The appropriate form can be found at the following website:

http://www.epa.ohio.gov/portals/28/Documents/opcert/Operator_of_Record_Notification_

4. Within 60 days of the effective date of this permit, the permittee shall notify the Director of Ohio EPA of the operators of record on a form acceptable to Ohio EPA.

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5. Minimum Staffing Requirements

a. The permittee shall ensure that the treatment works operator of record is physically present at the facility in accordance with the minimum staffing requirements per paragraph (C)(1) of rule 3745-7-04 of the Ohio Administrative Code or the requirements from an approved 3745-7-04(C) minimum staffing hour reduction plan.

b. Sewerage (collection) system Operators of Record are not required to meet minimum staffing requirements in paragraph (C)(1) of rule 3745-7-04 of the Ohio Administrative Code.

c. If Ohio EPA approves a reduction in minimum staffing requirements based upon a facility operating plan, any change in the criteria under which the operating plan was approved (such as enforcement status, history of noncompliance, or provisions included in the plan) will require that the treatment works immediately return to the minimum staffing requirements included in paragraph (C)(1) of rule 3745-7-04 of the Ohio Administrative Code.

C. Description of the location of the required sampling stations are as follows:

Sampling Station	Description of Location
3PV00013001	Final effluent (Lat: 41N 23' 16"; Long: 81W 54' 27")
3PV00013586	Sludge hauled to a solid waste landfill
3PV00013588	Sludge hauled to another NPDES permit holder
3PV00013601	Plant influent
3PV00013801	Upstream of plant discharge
3PV00013901	Downstream of plant discharge

D. All parameters, except flow, need not be monitored on days when the plant is not normally staffed (Saturdays, Sundays, and Holidays). On those days, report "AN" on the monthly report form.

E. Composite samples shall be comprised of a series of grab samples collected over a 24-hour period and proportionate in volume to the sewage flow rate at the time of sampling. Such samples shall be collected at such times and locations, and in such a fashion, as to be representative of the facility's overall performance.

F. Grab samples shall be collected at such times and locations, and in such fashion, as to be representative of the facility's performance.

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G. The parameters below have had effluent limitations established that are below the Ohio EPA Quantification Level (OEPA QL) for the approved analytical procedure promulgated at 40 CFR 136. OEPA QLs may be expressed as Practical Quantification Levels (PQL) or Minimum Levels (ML).

Compliance with an effluent limit that is below the OEPA QL is determined in accordance with ORC Section 6111.13 and OAC Rule 3745-33-07(C). For maximum effluent limits, any value reported below the OEPA QL shall be considered in compliance with the effluent limit. For average effluent limits, compliance shall be determined by taking the arithmetic mean of values reported for a specified averaging period, using zero (0) for any value reported at a concentration less than the OEPA QL, and comparing that mean to the appropriate average effluent limit. An arithmetic mean that is less than or equal to the average effluent limit shall be considered in compliance with that limit.

The permittee must utilize the lowest available detection method currently approved under 40 CFR Part 136 for monitoring these parameters.

REPORTING:

All analytical results, even those below the OEPA QL (listed below), shall be reported. Analytical results are to be reported as follows:

1. Results above the QL: Report the analytical result for the parameter of concern.

2. Results above the MDL, but below the QL: Report the analytical result, even though it is below the QL.

3. Results below the MDL: Analytical results below the method detection limit shall be reported as "below detection" using the reporting code "AA".

The following table of quantification levels will be used to determine compliance with NPDES permit limits:

Parameter	PQL	ML
Chlorine, tot. res.	0.050 mg/l	--

This permit may be modified, or, alternatively, revoked and reissued, to include more stringent effluent limits or conditions if information generated as a result of the conditions of this permit indicate the presence of these pollutants in the discharge at levels above the water quality based effluent limit (WQBEL).

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H. All disposal, use, storage, or treatment of sewage sludge by the Permittee shall comply with Chapter 6111. of the Ohio Revised Code, Chapter 3745-40 of the Ohio Administrative Code, any further requirements specified in this NPDES permit, and any other actions of the Director that pertain to the disposal, use, storage, or treatment of sewage sludge by the Permittee.

I. No later than January 31 of each calendar year the Permittee shall submit two (2) copies of a report summarizing the sewage sludge disposal, use, storage, or treatment activities of the Permittee during the previous calendar year. One copy of the report shall be sent to the Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, Ohio 43216-1049, and one copy of the report shall be sent to the appropriate Ohio EPA District Office. The report shall be submitted on Ohio EPA Form 4229.

J. It is understood by Ohio EPA that at the time this permit becomes effective, an analytical method is not approved under 40 CFR 136 to comply with the free cyanide monitoring requirements included in the permit. The permittee shall utilize method 4500-CN I in the 18th, 19th, or 20th edition of Standard Methods.

K. The permittee shall use EPA Method 1631 promulgated under 40 CFR 136 to comply with the influent and effluent mercury monitoring requirements of this permit.

L. Not later than 4 months from the effective date of this permit, the permittee shall post a permanent marker on the stream bank at each outfall that is regulated under this NPDES permit. This includes final outfalls, bypasses, and combined sewer overflows. The marker shall consist at a minimum of the name of the establishment to which the permit was issued, the Ohio EPA permit number, and the outfall number and a contact telephone number. The information shall be printed in letters not less than two inches in height. The marker shall be a minimum of 2 feet by 2 feet and shall be a minimum of 3 feet above ground level. The sign shall be not be obstructed such that persons in boats or persons swimming on the river or someone fishing or walking along the shore cannot read the sign. Vegetation shall be periodically removed to keep the sign visible. If the outfall is normally submerged the sign shall indicate that. If the outfall is a combined sewer outfall, the sign shall indicate that untreated human sewage may be discharged from the outfall during wet weather and that harmful bacteria may be present in the water.

M. Final permit limitations based on preliminary or approved waste load allocations are subject to change based on modifications to or finalization of the allocation or report or changes to Water Quality Standards. Monitoring requirements and/or special conditions of this permit are subject to change based on regulatory or policy changes.

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PART III - GENERAL CONDITIONS

1. DEFINITIONS

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

"Average weekly" discharge limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week. Each of the following 7-day periods is defined as a calendar week: Week 1 is Days 1 - 7 of the month; Week 2 is Days 8 - 14; Week 3 is Days 15 - 21; and Week 4 is Days 22 - 28. If the "daily discharge" on days 29, 30 or 31 exceeds the "average weekly" discharge limitation, Ohio EPA may elect to evaluate the last 7 days of the month as Week 4 instead of Days 22 - 28. Compliance with fecal coliform bacteria or E coli bacteria limitations shall be determined using the geometric mean.

"Average monthly" discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. Compliance with fecal coliform bacteria or E coli bacteria limitations shall be determined using the geometric mean.

"85 percent removal" means the arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period.

"Absolute Limitations" Compliance with limitations having descriptions of "shall not be less than," "nor greater than," "shall not exceed," "minimum," or "maximum" shall be determined from any single value for effluent samples and/or measurements collected.

"Net concentration" shall mean the difference between the concentration of a given substance in a sample taken of the discharge and the concentration of the same substances in a sample taken at the intake which supplies water to the given process. For the purpose of this definition, samples that are taken to determine the net concentration shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.

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"Net Load" shall mean the difference between the load of a given substance as calculated from a sample taken of the discharge and the load of the same substance in a sample taken at the intake which supplies water to given process. For purposes of this definition, samples that are taken to determine the net loading shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.

"MGD" means million gallons per day.

"mg/l" means milligrams per liter.

"ug/l" means micrograms per liter.

"ng/l" means nanograms per liter.

"S.U." means standard pH unit.

"kg/day" means kilograms per day.

"Reporting Code" is a five digit number used by the Ohio EPA in processing reported data. The reporting code does not imply the type of analysis used nor the sampling techniques employed.

"Quarterly (1/Quarter) sampling frequency" means the sampling shall be done in the months of March, June, August, and December, unless specifically identified otherwise in the Effluent Limitations and Monitoring Requirements table.

"Yearly (1/Year) sampling frequency" means the sampling shall be done in the month of September, unless specifically identified otherwise in the effluent limitations and monitoring requirements table.

"Semi-annual (2/Year) sampling frequency" means the sampling shall be done during the months of June and December, unless specifically identified otherwise.

"Winter" shall be considered to be the period from November 1 through April 30.

"Bypass" means the intentional diversion of waste streams from any portion of the treatment facility.

"Summer" shall be considered to be the period from May 1 through October 31.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

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"Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

"Sewage sludge weight" means the weight of sewage sludge, in dry U.S. tons, including admixtures such as liming materials or bulking agents. Monitoring frequencies for sewage sludge parameters are based on the reported sludge weight generated in a calendar year (use the most recent calendar year data when the NPDES permit is up for renewal).

"Sewage sludge fee weight" means the weight of sewage sludge, in dry U.S. tons, excluding admixtures such as liming materials or bulking agents. Annual sewage sludge fees, as per section 3745.11(Y) of the Ohio Revised Code, are based on the reported sludge fee weight for the most recent calendar year.

2. GENERAL EFFLUENT LIMITATIONS

The effluent shall, at all times, be free of substances:

A. In amounts that will settle to form putrescent, or otherwise objectionable, sludge deposits; or that will adversely affect aquatic life or water fowl;

B. Of an oily, greasy, or surface-active nature, and of other floating debris, in amounts that will form noticeable accumulations of scum, foam or sheen;

C. In amounts that will alter the natural color or odor of the receiving water to such degree as to create a nuisance;

D. In amounts that either singly or in combination with other substances are toxic to human, animal, or aquatic life;

E. In amounts that are conducive to the growth of aquatic weeds or algae to the extent that such growths become inimical to more desirable forms of aquatic life, or create conditions that are unsightly, or constitute a nuisance in any other fashion;

F. In amounts that will impair designated instream or downstream water uses.

3. FACILITY OPERATION AND QUALITY CONTROL

All wastewater treatment works shall be operated in a manner consistent with the following:

A. At all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with conditions of the permit.

B. The permittee shall effectively monitor the operation and efficiency of treatment and control facilities and the quantity and quality of the treated discharge.

C. Maintenance of wastewater treatment works that results in degradation of effluent quality shall be scheduled during non-critical water quality periods and shall be carried out in a manner approved by Ohio EPA as specified in the Paragraph in the PART III entitled, "UNAUTHORIZED DISCHARGES".

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4. REPORTING

A. Monitoring data required by this permit shall be submitted monthly on Ohio EPA 4500 Discharge Monitoring Report (DMR) forms using the electronic DMR (e-DMR) internet application. e-DMR allows permitted facilities to enter, sign, and submit DMRs on the internet. e-DMR information is found on the following web page:

http://www.epa.ohio.gov/dsw/edmr/eDMR.aspx

Alternatively, if you are unable to use e-DMR due to a demonstrated hardship, monitoring data may be submitted on paper DMR forms provided by Ohio EPA. Monitoring data shall be typed on the forms. Please contact Ohio EPA, Division of Surface Water at (614) 644-2050 if you wish to receive paper DMR forms.

B. DMRs shall be signed by a facility's Responsible Official or a Delegated Responsible Official (i.e. a person delegated by the Responsible Official). The Responsible Official of a facility is defined as:

1. For corporations - a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. For partnerships - a general partner;

3. For a sole proprietorship - the proprietor; or,

4. For a municipality, state or other public facility - a principal executive officer, a ranking elected official or other duly authorized employee.

For e-DMR, the person signing and submitting the DMR will need to obtain an eBusiness Center account and Personal Identification Number (PIN). Additionally, Delegated Responsible Officials must be delegated by the Responsible Official, either on-line using the eBusiness Center's delegation function, or on a paper delegation form provided by Ohio EPA. For more information on the PIN and delegation processes, please view the following web page:

http://www.epa.ohio.gov/dsw/edmr/eDMRpin.aspx

C. DMRs submitted using e-DMR shall be submitted to Ohio EPA by the 20th day of the month following the month-of-interest. DMRs submitted on paper must include the original signed DMR form and shall be mailed to Ohio EPA at the following address so that they are received no later than the 15th day of the month following the month-of-interest:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water - PCU
P.O. Box 1049
Columbus, Ohio 43216-1049

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D. Regardless of the submission method, a paper copy of the submitted Ohio EPA 4500 DMR shall be maintained onsite for records retention purposes (see Section 7. RECORDS RETENTION). For e-DMR users, view and print the DMR from the Submission Report Information page after each original or revised DMR is submitted. For submittals on paper, make a copy of the completed paper form after it is signed by a Responsible Official or a Delegated Responsible Official.

E. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified in Section 5. SAMPLING AND ANALYTICAL METHODS, the results of such monitoring shall be included in the calculation and reporting of the values required in the reports specified above.

F. Analyses of pollutants not required by this permit, except as noted in the preceding paragraph, shall not be reported to the Ohio EPA, but records shall be retained as specified in Section 7. RECORDS RETENTION.

5. SAMPLING AND ANALYTICAL METHOD

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored flow. Test procedures for the analysis of pollutants shall conform to regulation 40 CFR 136, "Test Procedures For The Analysis of Pollutants" unless other test procedures have been specified in this permit. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to insure accuracy of measurements.

6. RECORDING OF RESULTS

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

A. The exact place and date of sampling; (time of sampling not required on EPA 4500)

B. The person(s) who performed the sampling or measurements;

C. The date the analyses were performed on those samples;

D. The person(s) who performed the analyses;

E. The analytical techniques or methods used; and

F. The results of all analyses and measurements.

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7. RECORDS RETENTION

The permittee shall retain all of the following records for the wastewater treatment works for a minimum of three years except those records that pertain to sewage sludge disposal, use, storage, or treatment, which shall be kept for a minimum of five years, including:

A. All sampling and analytical records (including internal sampling data not reported);

B. All original recordings for any continuous monitoring instrumentation;

C. All instrumentation, calibration and maintenance records;

D. All plant operation and maintenance records;

E. All reports required by this permit; and

F. Records of all data used to complete the application for this permit for a period of at least three years, or five years for sewage sludge, from the date of the sample, measurement, report, or application.

These periods will be extended during the course of any unresolved litigation, or when requested by the Regional Administrator or the Ohio EPA. The three year period, or five year period for sewage sludge, for retention of records shall start from the date of sample, measurement, report, or application.

8. AVAILABILITY OF REPORTS

Except for data determined by the Ohio EPA to be entitled to confidential status, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate district offices of the Ohio EPA. Both the Clean Water Act and Section 6111.05 Ohio Revised Code state that effluent data and receiving water quality data shall not be considered confidential.

9. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

10. RIGHT OF ENTRY

The permittee shall allow the Director or an authorized representative upon presentation of credentials and other documents as may be required by law to:

A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.

B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.

D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

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11. UNAUTHORIZED DISCHARGES

A. Bypass Not Exceeding Limitations - The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 11.B and 11.C.

B. Notice

1. Anticipated Bypass - If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

2. Unanticipated Bypass - The permittee shall submit notice of an unanticipated bypass as required in paragraph 12.B (24 hour notice).

C. Prohibition of Bypass

1. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The permittee submitted notices as required under paragraph 11.B.

2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 11.C.1.

12. NONCOMPLIANCE NOTIFICATION

A. Exceedance of a Daily Maximum Discharge Limit

1. The permittee shall report noncompliance that is the result of any violation of a daily maximum discharge limit for any of the pollutants listed by the Director in the permit by e-mail or telephone within twenty-four (24) hours of discovery.

The permittee may report to the appropriate Ohio EPA district office e-mail account as follows (this method is preferred):

Southeast District Office: sedo24hournpdes@epa.state.oh.us
Southwest District Office: swdo24hournpdes@epa.state.oh.us
Northwest District Office: nwdo24hournpdes@epa.state.oh.us
Northeast District Office: nedo24hournpdes@epa.state.oh.us
Central District Office: cdo24hournpdes@epa.state.oh.us
Central Office: co24hournpdes@epa.state.oh.us

The permittee shall attach a noncompliance report to the e-mail. A noncompliance report form is available on the following web site:

http://www.epa.ohio.gov/dsw/permits/permits.aspx

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Or, the permittee may report to the appropriate Ohio EPA district office by telephone toll-free between 8:00 AM and 5:00 PM as follows:

Southeast District Office: (800) 686-7330
Southwest District Office: (800) 686-8930
Northwest District Office: (800) 686-6930
Northeast District Office: (800) 686-6330
Central District Office: (800) 686-2330
Central Office: (614) 644-2001

The permittee shall include the following information in the telephone noncompliance report:

a. The name of the permittee, and a contact name and telephone number;

b. The limit(s) that has been exceeded;

c. The extent of the exceedance(s);

d. The cause of the exceedance(s);

e. The period of the exceedance(s) including exact dates and times;

f. If uncorrected, the anticipated time the exceedance(s) is expected to continue; and,

g. Steps taken to reduce, eliminate or prevent occurrence of the exceedance(s).

B. Other Permit Violations

1. The permittee shall report noncompliance that is the result of any unanticipated bypass resulting in an exceedance of any effluent limit in the permit or any upset resulting in an exceedance of any effluent limit in the permit by e-mail or telephone within twenty-four (24) hours of discovery.

The permittee may report to the appropriate Ohio EPA district office e-mail account as follows (this method is preferred):

Southeast District Office: sedo24hournpdes@epa.state.oh.us
Southwest District Office: swdo24hournpdes@epa.state.oh.us
Northwest District Office: nwdo24hournpdes@epa.state.oh.us
Northeast District Office: nedo24hournpdes@epa.state.oh.us
Central District Office: cdo24hournpdes@epa.state.oh.us
Central Office: co24hournpdes@epa.state.oh.us

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Central Office: (614) 644-2001

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The permittee shall include the following information in the telephone noncompliance report:

a. The name of the permittee, and a contact name and telephone number;

b. The time(s) at which the discharge occurred, and was discovered;

c. The approximate amount and the characteristics of the discharge;

d. The stream(s) affected by the discharge;

e. The circumstances which created the discharge;

f. The name and telephone number of the person(s) who have knowledge of these circumstances;

g. What remedial steps are being taken; and,

h. The name and telephone number of the person(s) responsible for such remedial steps.

2. The permittee shall report noncompliance that is the result of any spill or discharge which may endanger human health or the environment within thirty (30) minutes of discovery by calling the 24-Hour Emergency Hotline toll-free at (800) 282-9378. The permittee shall also report the spill or discharge by e-mail or telephone within twenty-four (24) hours of discovery in accordance with B.1 above.

C. When the telephone option is used for the noncompliance reports required by A and B, the permittee shall submit to the appropriate Ohio EPA district office a confirmation letter and a completed noncompliance report within five (5) days of the discovery of the noncompliance. This follow up report is not necessary for the e-mail option which already includes a completed noncompliance report.

D. If the permittee is unable to meet any date for achieving an event, as specified in a schedule of compliance in their permit, the permittee shall submit a written report to the appropriate Ohio EPA district office within fourteen (14) days of becoming aware of such a situation. The report shall include the following:

1. The compliance event which has been or will be violated;

2. The cause of the violation;

3. The remedial action being taken;

4. The probable date by which compliance will occur; and,

5. The probability of complying with subsequent and final events as scheduled.

E. The permittee shall report all other instances of permit noncompliance not reported under paragraphs A or B of this section on their monthly DMR submission. The DMR shall contain comments that include the information listed in paragraphs A or B as appropriate.

F. If the permittee becomes aware that it failed to submit an application, or submitted incorrect information in an application or in any report to the director, it shall promptly submit such facts or information.

13. RESERVED

14. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

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15. AUTHORIZED DISCHARGES

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than, or at a level in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such violations may result in the imposition of civil and/or criminal penalties as provided for in Section 309 of the Act and Ohio Revised Code Sections 6111.09 and 6111.99.

16. DISCHARGE CHANGES

The following changes must be reported to the appropriate Ohio EPA district office as soon as practicable:

A. For all treatment works, any significant change in character of the discharge which the permittee knows or has reason to believe has occurred or will occur which would constitute cause for modification or revocation and reissuance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. Notification of permit changes or anticipated noncompliance does not stay any permit condition.

B. For publicly owned treatment works:

1. Any proposed plant modification, addition, and/or expansion that will change the capacity or efficiency of the plant;

2. The addition of any new significant industrial discharge; and

3. Changes in the quantity or quality of the wastes from existing tributary industrial discharges which will result in significant new or increased discharges of pollutants.

C. For non-publicly owned treatment works, any proposed facility expansions, production increases, or process modifications, which will result in new, different, or increased discharges of pollutants.

Following this notice, modifications to the permit may be made to reflect any necessary changes in permit conditions, including any necessary effluent limitations for any pollutants not identified and limited herein. A determination will also be made as to whether a National Environmental Policy Act (NEPA) review will be required. Sections 6111.44 and 6111.45, Ohio Revised Code, require that plans for treatment works or improvements to such works be approved by the Director of the Ohio EPA prior to initiation of construction.

D. In addition to the reporting requirements under 40 CFR 122.41(l) and per 40 CFR 122.42(a), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit. If that discharge will exceed the highest of the "notification levels" specified in 40 CFR Sections 122.42(a)(1)(i) through 122.42(a)(1)(iv).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" specified in 122.42(a)(2)(i) through 122.42(a)(2)(iv).

17. TOXIC POLLUTANTS

The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement. Following establishment of such standards or prohibitions, the Director shall modify this permit and so notify the permittee.

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18. PERMIT MODIFICATION OR REVOCATION

A. After notice and opportunity for a hearing, this permit may be modified or revoked, by the Ohio EPA, in whole or in part during its term for cause including, but not limited to, the following:

1. Violation of any terms or conditions of this permit;

2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

3. Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

B. Pursuant to rule 3745-33-04, Ohio Administrative Code, the permittee may at any time apply to the Ohio EPA for modification of any part of this permit. The filing of a request by the permittee for a permit modification or revocation does not stay any permit condition. The application for modification should be received by the appropriate Ohio EPA district office at least ninety days before the date on which it is desired that the modification become effective. The application shall be made only on forms approved by the Ohio EPA.

19. TRANSFER OF OWNERSHIP OR CONTROL

This permit may be transferred or assigned and a new owner or successor can be authorized to discharge from this facility, provided the following requirements are met:

A. The permittee shall notify the succeeding owner or successor of the existence of this permit by a letter, a copy of which shall be forwarded to the appropriate Ohio EPA district office. The copy of that letter will serve as the permittee's notice to the Director of the proposed transfer. The copy of that letter shall be received by the appropriate Ohio EPA district office sixty (60) days prior to the proposed date of transfer;

B. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) shall be submitted to the appropriate Ohio EPA district office within sixty days after receipt by the district office of the copy of the letter from the permittee to the succeeding owner;

At anytime during the sixty (60) day period between notification of the proposed transfer and the effective date of the transfer, the Director may prevent the transfer if he concludes that such transfer will jeopardize compliance with the terms and conditions of the permit. If the Director does not prevent transfer, he will modify the permit to reflect the new owner.

20. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

21. SOLIDS DISPOSAL

Collected grit and screenings, and other solids other than sewage sludge, shall be disposed of in such a manner as to prevent entry of those wastes into waters of the state, and in accordance with all applicable laws and rules.

22. CONSTRUCTION AFFECTING NAVIGABLE WATERS

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

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23. CIVIL AND CRIMINAL LIABILITY

Except as exempted in the permit conditions on UNAUTHORIZED DISCHARGES or UPSETS, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

24. STATE LAWS AND REGULATIONS

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

25. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

26. UPSET

The provisions of 40 CFR Section 122.41(n), relating to "Upset," are specifically incorporated herein by reference in their entirety. For definition of "upset," see Part III, Paragraph 1, DEFINITIONS.

27. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

28. SIGNATORY REQUIREMENTS

All applications submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR 122.22.

All reports submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR Section 122.22.

29. OTHER INFORMATION

A. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

B. ORC 6111.99 provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $25,000 per violation.

C. ORC 6111.99 states that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $25,000 per violation.

D. ORC 6111.99 provides that any person who violates Sections 6111.04, 6111.042, 6111.05, or division (A) of Section 6111.07 of the Revised Code shall be fined not more than $25,000 or imprisoned not more than one year, or both.

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30. NEED TO HALT OR REDUCE ACTIVITY

40 CFR 122.41(c) states that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of this permit.

31. APPLICABLE FEDERAL RULES

All references to 40 CFR in this permit mean the version of 40 CFR which is effective as of the effective date of this permit.

32. AVAILABILITY OF PUBLIC SEWERS

Not withstanding the issuance or non-issuance of an NPDES permit to a semi-public disposal system, whenever the sewage system of a publicly owned treatment works becomes available and accessible, the permittee operating any semi-public disposal system shall abandon the semi-public disposal system and connect it into the publicly owned treatment works.

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Loan No. 76-0061022

GENERAL ELECTRIC CAPITAL CORPORATION
(Lender)

to

COLUMBIA PARK EAST MHP LLC
and
COLUMBIA FAR WEST, LLC
(collectively, jointly and severally, Borrower, and each a Co-Borrower)

LOAN AGREEMENT

Dated as of: May 2, 2007

Property Location: Columbia Park MHC and Columbia Park Retail, Olmstead Falls, Ohio
Brook Park MHC, Cleveland, Ohio

DOCUMENT PREPARED BY:

Andrews Kurth LLP
1717 Main Street, Suite 3700
Dallas, Texas 75201
Attention: Charles T. Marshall, Esq.

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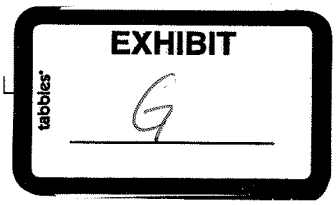

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LOAN AGREEMENT

This Loan Agreement (this "**Agreement**") is entered into as of May 8, 2007, between **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation ("**Lender**"), **COLUMBIA PARK EAST MHP LLC** and **COLUMBIA FAR WEST, LLC**, each a Delaware limited liability company (collectively, jointly and severally, "**Borrower**" and each, a "**Co-Borrower**").

ARTICLE 1
DEFINITIONS

Section 1.1 Certain Definitions. As used herein, the following terms have the meanings indicated:

"**Affiliate**" means (a) any corporation in which Borrower or any partner, shareholder, director, officer, member, or manager of Borrower directly or indirectly owns or controls more than ten percent (10%) of the beneficial interest, (b) any partnership, joint venture or limited liability company in which Borrower or any partner, shareholder, director, officer, member, or manager of Borrower is a partner, joint venturer or member, (c) any trust in which Borrower or any partner, shareholder, director, officer, member or manager of Borrower is a trustee or beneficiary, (d) any entity of any type which is directly or indirectly owned or controlled by Borrower or any partner, shareholder, director, officer, member or manager of Borrower, (e) any partner, shareholder, director, officer, member, manager or employee of Borrower, (f) any Person related by birth, adoption or marriage to any partner, shareholder, director, officer, member, manager, or employee of Borrower, or (g) any Borrower Party.

"**Agreement**" means this Loan Agreement, as amended from time to time.

"**Assignment of Leases and Rents**" means the Assignment of Leases and Rents, executed by Borrower for the benefit of Lender, and pertaining to leases of space in the Project.

"**Award**" has the meaning assigned in Section 3.3.

"**Bankruptcy Party**" has the meaning assigned in Section 9.7.

"**Borrower Party**" means any Joinder Party, any general partner of Borrower, and any general partner in any partnership that is a general partner of Borrower, any managing member of Borrower, and any managing member in any limited liability company that is a managing member of Borrower, at any level.

"**Business Day**" means a day other than a Saturday, a Sunday, or a legal holiday on which national banks located in the State of New York are not open for general banking business.

"**Casualty**" has the meaning assigned in Section 3.2.

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"**Closing Date**" means the date the Loan is funded by Lender.

"**Commitment**" means the commitment letter, dated March 9, 2007, issued by Lender and accepted by Borrower on March 12, 2007.

"**Condemnation**" has the meaning assigned in Section 3.3.

"**Contract Rate**" has the meaning assigned in Section 2.2.

"**Debt**" means, for any Person, without duplication: (a) all indebtedness of such Person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such Person or its assets is liable, (b) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable, if such amounts were advanced under the credit facility, (c) all amounts required to be paid by such Person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (d) all indebtedness guaranteed by such Person, directly or indirectly, (e) all obligations under leases that constitute capital leases for which such Person is liable, and (f) all obligations of such Person under swaps, caps, floors, collars and other hedge agreements, in each case whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss.

"**Debt Service**" means the aggregate interest, fixed principal, and other payments due under the Loan, and on any other outstanding permitted Debt relating to the Project approved by Lender for the period of time for which calculated.

"**Debt Service Coverage**" means, for the period of time for which calculation is being made, the ratio of annualized Underwritten NOI to annualized Debt Service.

"**Default Rate**" means the lesser of (a) the maximum rate of interest allowed by applicable law, and (b) five percent (5%) per annum in excess of the Contract Rate.

"**Defeasance Lockout Period**" has the meaning assigned in Section 2.3(c).

"**Defeasance Option**" has the meaning assigned in Section 2.3(d).

"**Earn-out Determination Date**" has the meaning assigned in Section 2.5(b).

"**Earn-out Escrow Fund**" has the meaning assigned in Section 2.4(a).

"**Earn-out Escrow Proceeds**" has the meaning assigned in Section 2.5.

"**Earn-out Principal Paydown Amount**" has the meaning assigned in Section 2.5.

"**Earn-out Yield Maintenance Amount**" has the meaning assigned in ***Schedule V***.

"**Environmental Laws**" has the meaning assigned in Section 4.1(a).

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"**ERISA**" has the meaning assigned in Section 6.8.

"**Event of Default**" has the meaning assigned in Article 9.

"**Funds**" means the Required Repair Fund, the Replacement Escrow Fund, the Rollover Escrow Fund, and the Earn-out Escrow Fund (as defined in Section 2.4(a)).

"**Hazardous Materials**" has the meaning assigned in Section 4.1(b).

"**Independent Director/Manager**" has the meaning assigned in Section 6.14(p).

"**Insurance Premiums**" has the meaning assigned in Section 3.1(c).

"**Joinder Party**" means the Persons, if any, executing the Joinder hereto.

"**Lien**" means any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

"**Loan**" means the loan made by Lender to Borrower under this Agreement and all other amounts secured by the Loan Documents.

"**Loan Documents**" means: (a) this Agreement, (b) the Note, (c) the Mortgage, (d) the Assignment of Leases and Rents, (e) Uniform Commercial Code financing statements, (f) such assignments of management agreements, contracts and other rights as may be required under the Commitment or otherwise requested by Lender, (g) all other documents evidencing, securing, governing or otherwise pertaining to the Loan, and (h) all amendments, modifications, renewals, substitutions and replacements of any of the foregoing; provided however, in no event shall the term "Loan Documents" include that certain Hazardous Materials Indemnity Agreement (the "**Environmental Indemnity Agreement**") dated the date hereof in favor of Lender.

"**Loan Year**" means (a) for the first Loan Year, the period between the date hereof and one calendar year from the last day of the month in which the Closing Date occurs (unless the Closing Date is on the first day of a month, in which case the first Loan Year shall commence on such Closing Date and end one calendar year from the last day of the month immediately preceding the Closing Date) and (b) each consecutive twelve month calendar period after the first Loan Year until the Maturity Date.

"**Maturity Date**" means, as applicable, the earlier of (a) June 1, 2017, or (b) any earlier date on which the entire Loan is required to be paid in full, by acceleration or otherwise, under this Agreement or any of the other Loan Documents.

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"**Maximum Loan Amount**" means the maximum principal amount of $55,000,000.00, in lawful money of the United States of America, to be advanced to Borrower pursuant to this Loan Agreement. Reference in the Loan Agreement to "Maximum Loan Amount" mean the maximum principal amount, irrespective of actual principal amount outstanding or actually advanced to Borrower during the term of the Loan.

"**Mortgage**" means the Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, executed by Borrower in favor of Lender, covering the Project.

"**New Qualified Loan Amount**" has the meaning assigned in Section 2.5.

"**Note**" means the Promissory Note of even date, in the stated principal amount of $55,000,000.00, executed by Borrower, and payable to the order of Lender in evidence of the Loan.

"**Operating Expenses**" means, for any period, all reasonable and necessary expenses of operating the Project in the ordinary course of business which are paid in cash by Borrower during such period and which are directly associated with and fairly allocable to the Project for the applicable period, including ad valorem real estate taxes and assessments, insurance premiums, regularly scheduled tax impounds paid to Lender, maintenance costs, management fees and costs, wages, salaries, personnel expenses, accounting, legal, and other professional fees, fees and other expenses incurred by Lender and reimbursed by Borrower under the Loan Documents, and deposits to any capital replacement, leasing or other reserves required by Lender. Operating Expenses shall exclude Debt Service, capital expenditures, tenant improvement costs, leasing commissions, or other operating expenses which are paid from deposits to cash reserves and such deposits were previously included as Operating Expenses, any payment or expense for which Borrower was or is to be reimbursed from proceeds of the Loan or insurance or by any third party, and any non-cash charges such as depreciation and amortization. Any management fee or other expense payable to Borrower or to an Affiliate of Borrower shall be included as an Operating Expense only in an amount not to exceed 3% of rental collections. Operating Expenses shall not include federal, state or local income taxes.

"**Operating Revenues**" means, for any period, all cash receipts of Borrower during such period from operation of the Project or otherwise arising in respect of the Project after the date hereof which are properly allocable to the Project for the applicable period, including receipts from leases and parking agreements, concession fees and charges, other miscellaneous operating revenues, and proceeds from rental or business interruption insurance, but excluding security deposits and earnest money deposits until they are forfeited by the depositor, advance rentals until they are earned, proceeds from a sale or other disposition, proceeds from a condemnation (unless such proceeds are attributable to lost income) and proceeds from casualty insurance (other than rental or business interruption insurance which is specifically included as Operating Revenue).

"**Partial Defeasance Option**" has the meaning assigned in Section 2.3(d).

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"**Payment Date**" has the meaning assigned in Section 2.3(a), and is the date that a regularly scheduled payment of interest is due, without including in such calculation the payment of interest, if any, made on the Closing Date.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust, government or any agency or political subdivision thereof, or any other form of entity.

"**Potential Default**" means the occurrence of any event or condition which, with the giving of notice, the passage of time, or both, would constitute an Event of Default.

"**Project**" means Columbia Park MHC and Columbia Park Retail ("**Columbia Park Retail**"), Olmstead Falls, Ohio (collectively, "**Columbia Park**") and Brook Park MHC, Cleveland, Ohio ("**Brook Park**"), and all related facilities, amenities, fixtures, and personal property owned by Borrower and any improvements now or hereafter located on the real property described in ***Exhibit A***.

"**Qualified Loan Amount**" has the meaning assigned in Section 2.5(a).

"**Rating Agencies**" means each of Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc., Moody's Investors Service, Inc., and Fitch, Inc., or any other nationally-recognized statistical rating agency which has been approved by Lender.

"**Released Party**" has the meaning assigned in Section 8.13.

"**Replacement Escrow Fund**" has the meaning assigned in Section 2.4.

"**Required Repair Fund**" has the meaning assigned in Section 2.4.

"**Rollover Escrow Fund**" has the meaning assigned in Section 2.4.

"**Secondary Market Transaction**" has the meaning assigned in Section 8.11.

"**Securities**" has the meaning assigned in Section 8.11.

"**Securitization**" has the meaning assigned in Section 8.11.

"**Securitization Date**" means the "startup date," as defined in Section 860G(a)(9) of the Code, of a "real estate mortgage investment conduit," as defined in Section 860D of the Code, that holds the Note.

"**Single Purpose Entity**" shall mean a Person (other than an individual, a government or any agency or political subdivision thereof), which exists solely for the purpose of owning the Project, observes corporate, company or partnership formalities, as applicable, independent of any other entity, and which otherwise complies with the covenants set forth in Section 6.14 hereof.

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"**Site Assessment**" means an environmental engineering report for the Project prepared at Borrower's expense by an engineer engaged by Borrower, or Lender on behalf of Borrower, and approved by Lender, and in a manner reasonably satisfactory to Lender, based upon an investigation relating to and making appropriate inquiries concerning the existence of Hazardous Materials on or about the Project, and the past or present discharge, disposal, release or escape of any such substances, all consistent with ASTM Standard E1527-93 (or any successor thereto published by ASTM) and good customary and commercial practice.

"**SPE Party**" has the meaning assigned in Section 6.14(o).

"**Standard Adjustments**" means the following assumptions to be made when calculating Underwritten NOI: (a) an occupancy rate equal to the lesser of market occupancy or the Project's actual occupancy rate (but in no event more than a ninety-five percent (95%) occupancy rate; (b) capital reserves of $40 per pad per year for mobile homes and $.22 per square foot per year for retail space and rollover reserves of $10,500 per year, and (c) a management fee equal to the greater of the Project's actual management fee or three percent (3%) of Operating Revenues. As used above, "market occupancy" means the average occupancy rate of manufactured home projects that are similar in size and quality to the Project and that are located in the Project's geographic market or sub-market area.

"**State**" means the State of Ohio.

"**Tax and Insurance Escrow Fund**" has the meaning assigned in Section 3.4.

"**Taxes**" has the meaning assigned in Section 8.2.

"**Underwritten NOI**" means Underwritten Operating Revenues minus Underwritten Operating Expenses.

"**Underwritten Operating Expenses**" means Operating Expenses as adjusted to reflect the Standard Adjustments.

"**Underwritten Operating Revenues**" means Operating Revenues as adjusted to reflect the Standard Adjustments.

"**Yield Maintenance Amount**" has the meaning assigned in ***Schedule I***.

ARTICLE 2
LOAN TERMS

Section 2.1 The Loan. Upon satisfaction of all the terms and conditions set forth in the Commitment, Lender agrees to make a Loan of FIFTY-FIVE MILLION AND NO/100 DOLLARS ($55,000,000.00) to the Borrower, which shall be funded in one advance and repaid in accordance with the terms of this Agreement and the Note. Borrower hereby agrees to accept the Loan on the Closing Date, subject to and upon the terms and conditions set forth herein.

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Section 2.2 **Interest Rate; Late Charge.** The outstanding principal balance of the Loan shall bear interest at a rate of interest equal to five and fifty-four hundredths percent (5.54%) per annum (the "**Contract Rate**"). Interest at the Contract Rate shall be computed on the basis of a fraction, the denominator of which is three hundred sixty (360) days and the numerator of which is the actual number of days elapsed from the date of the initial disbursement under the Loan or the date of the preceding interest installment due date, as the case may be, to the date of the next interest installment due date or the Maturity Date. If Borrower fails to pay any installment of interest or principal within five (5) days of (and including) the date on which the same is due, Borrower shall pay to Lender a late charge on such past-due amount, as liquidated damages and not as a penalty, equal to five percent (5%) of such amount, but not in excess of the maximum amount of interest allowed by applicable law. While any Event of Default exists, the Loan shall bear interest at the Default Rate.

Section 2.3 **Terms of Payment**. The Loan shall be payable as follows:

(a) **Interest**. On the date hereof, Borrower shall pay interest only representing interest accrued from the date hereof through the last day of the current month computed at the Contract Rate. Thereafter, commencing on July 1, 2007, and continuing on the first (1st) day of each calendar month thereafter (each such date a "**Payment Date**"), Borrower shall pay interest only in arrears computed at the Contract Rate on the outstanding principal balance of the Loan.

(b) **Maturity**. On the Maturity Date, Borrower shall pay to Lender all outstanding principal, accrued and unpaid interest, default interest, late charges and any and all other amounts due under the Loan Documents.

(c) **Prepayment**. Except as set forth herein, the Loan is closed to prepayment in whole or in part. Notwithstanding the foregoing, the Loan may be prepaid in whole, but not in part, on or after the one hundred eighteenth (118th) Payment Date (the "**Open Prepayment Date**"), and (ii) the Loan may be prepaid in part in connection with the application of the Earn-out Principal Paydown Amount pursuant to Section 2.5 hereof upon the payment of the Earn-out Principal Paydown Amount and a prepayment premium equal to the greater of (x) one percent (1%) of the Earn-out Principal Paydown Amount or (y) the Yield Maintenance Amount thereon, provided Borrower pays with such prepayment all accrued interest and all other outstanding amounts then due and unpaid under the Loan Documents.

If the Loan is accelerated for any reason other than casualty or condemnation (it being expressly understood that Borrower's exercise of any right to of the Defeasance Option or the Partial Defeasance Option or any principal payment made in connection with the application of the Earn-out Principal Paydown Amount shall not constitute an "acceleration" of the Loan for purposes of this paragraph), and the Loan is otherwise closed to prepayment, Borrower shall pay, in addition to all other amounts outstanding under the Loan Documents, a prepayment premium equal to the sum of (i) the same Yield Maintenance Amount, if any, that would be required assuming the exercise of the Defeasance Option and (ii) five percent (5%) of the outstanding balance of the Loan.

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If for any reason the Loan is prepaid on a day other than a Payment Date, Borrower shall pay, in addition to the principal, interest and premium, if any, required under this Section, an amount equal to the interest that would have accrued on the Loan from the date of prepayment to the next Payment Date. In the event of a prepayment resulting from Lender's application of insurance or condemnation proceeds pursuant to Article 3 hereof, no prepayment penalty or premium shall be imposed.

(d) **Defeasance**. On any Business Day following the earlier to occur of (i) two (2) years after the Securitization Date or (ii) the fourth (4th) anniversary of the Closing Date (the "**Defeasance Lockout Period**"), provided no Event of Default exists, Borrower (x) may obtain the release of the entire Project from the lien of the Mortgage in accordance with the terms and provisions of ***Schedule I*** attached hereto (the "**Defeasance Option**") or (y) may obtain the release of a Released Property from the lien of the Mortgage in accordance with the terms and provisions of Section 8.13 and ***Schedule VI*** attached hereto (the "**Partial Defeasance Option**").

(e) **Application of Payments**. Payments of principal and interest due from Borrower shall be applied first to the payment of Default Rate interest and late charges, then to Lender advances made to protect the Project or to perform obligations which Borrower failed to perform, then to the payment of accrued but unpaid interest, and then to reduction of the outstanding principal. Prepayments of principal, if permitted or accepted, shall be applied against amounts owing in inverse order of maturity. Following an Event of Default, Lender may apply all payments to amounts then due in any manner and in any other determined by Lender, in its sole discretion.

Section 2.4 Security; Establishment of Funds.

(a) The Loan shall be secured by the Mortgage creating a first lien on the Project, the Assignment of Leases and Rents and the other Loan Documents. Borrower agrees to establish the following reserves with Lender, to be held by Lender as further security for the Loan:

(i) on the Closing Date, Borrower shall deposit with Lender the amount of $429,625.00 (the "**Required Repair Fund**") which shall be held by Lender for the completion of the required repairs set forth on ***Schedule II*** annexed hereto on or before six (6) months from the date hereof;

(ii) upon the occurrence and during the continuance of an Event of Default, Borrower shall deposit with Lender on the first day of each calendar month a scheduled payment is due the amount of $4,620.00 which shall be held by Lender for replacements and repairs required to be made to the Project during the calendar year (the "**Replacement Escrow Fund**");

(iii) Borrower shall deposit with Lender on the first day of each calendar month a scheduled payment is due the amount of $880.00 which shall be held by Lender for tenant improvement and leasing commission obligations incurred following the date hereof (the "**Rollover Escrow Fund**").

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Disbursements of the Funds for tenant improvement and leasing commission costs (i) for designated spaces for which more than one lease is executed may be made on a pro-rata basis for each lease upon satisfaction of conditions to disbursement to each such lease and (ii) for designated tenants may be disbursed with respect to a replacement or substitute tenant approved by Lender; and

(iv) On the Closing Date, Borrower shall deposit with Lender, out of the proceeds of the Loan, the amount of $3,252,000.00 which shall be disbursed in accordance with Section 2.5 hereof (the "**Earn-out Escrow Fund**").

(b) **Pledge and Disbursement of Funds**. Borrower hereby pledges to Lender, and grants a security interest in, any and all monies now or hereafter deposited in the Funds as additional security for the payment of the Loan. Lender may reasonably reassess its estimate of the amount necessary for the Funds from time to time and may adjust the monthly amounts required to be deposited into the Funds upon thirty (30) days notice to Borrower. Lender shall make disbursements from the Funds as requested by Borrower, and approved by Lender in its reasonable discretion, on a quarterly basis in increments of no less than $5,000.00 upon delivery by Borrower of Lender's standard form of draw request accompanied by copies of paid invoices for the amounts requested and, if required by Lender, lien waivers and releases from all parties furnishing materials and/or services in connection with the requested payment. Lender may require an inspection of the Project at Borrower's expense prior to making a quarterly disbursement in order to verify completion of replacements and repairs for which reimbursement is sought. The Funds shall be held without interest (except as set forth below) in Lender's name and may be commingled with Lender's own funds at financial institutions selected by Lender in its reasonable discretion. Upon the occurrence of an Event of Default, Lender may apply any sums then present in the Funds to the payment of the Loan in any order in its reasonable discretion. Until expended or applied as above provided, the Funds shall constitute additional security for the Loan. Lender shall have no obligation to release any of the Funds while any Event of Default or Potential Default exists or any material adverse change has occurred in Borrower or any Joinder Party, the Project, or any major or anchor tenant. All costs and expenses incurred by Lender in the disbursement of any of the Funds shall be paid by Borrower promptly upon demand or, at Lender's sole discretion, deducted from the Funds.

(c) **Interest Payable by Lender**. Lender shall cause all monies on deposit in the Earn-out Escrow Fund to be invested and reinvested in U.S. Treasury Securities having a 90-day maturity through an account customarily maintained by Lender or its servicing agent for the investment of (and may be commingled with) similar reserves. The Earn-out Escrow Fund shall be held in an account in Lender's name (or such other account name as Lender may elect) at a financial institution or other depository selected by Lender (or its servicer) in its sole discretion (collectively, the "**Depository Institution**"). Lender or its Depository Institution shall be entitled to report under Borrower's Federal tax identification number the Borrower's interest on the Earn-out Escrow Fund. The amount of Borrower's interest allocated to the Earn-out Escrow Fund shall be added to the balance in the Earn-out Escrow Fund, and shall be disbursed for

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payment of the items for which the Earn-out Escrow Fund is to be disbursed. Any interest earned above the Borrower's interest shall be retained by Lender as compensation for its administration and investment of such Earn-out Escrow Fund.

Section 2.5 Reverse Earn-out.

(a) Borrower acknowledges that, based on Lender's determination of the Project's economic performance, Borrower qualifies only for a loan amount of $51,748,000 on the Closing Date (the "**Qualified Loan Amount**") and the amount of $3,252,000 (the "**Earn-out Escrow Proceeds**") has been funded into the Earn-out Escrow Fund pending satisfaction of the conditions set forth in this Section 2.5 and/or the re-determination of the Qualified Loan Amount in accordance with this Section 2.5.

(b) Upon receipt of evidence satisfactory to Lender of (i) signed judgment or order evidencing (A) the dismissal of that suit styled *Frank Pojman et al. vs. Columbia-Brook Park Management LLC, et al.*, Case No. CA-06-088666 in the Court of Appeals of the Eighth Judicial District of Ohio, Cuyahoga County, Ohio, or any court to which such case is remanded, appealed, pled or repled (the "**Lawsuit**"), without further appeal or (B) the final non-appealable judgment in favor the defendant in the Lawsuit, (ii) no monetary damages payable by the defendant, and (iii) the September, 2007 rent increases at the Project in an amount at least equal to the 2007 increases in Taxes, the entire Earn-out Escrow Proceeds shall be disbursed to Borrower.

(c) Prior to the occurrence of all of the conditions set forth in Section 2.5(b), the Earn-out Escrow Proceeds may be partially released in accordance with the following:

(i) In the event that a judgment is rendered in favor of the plaintiffs in the Lawsuit or the plaintiffs appeal a judgment in favor of defendant, then on or before the fourth (4th) Loan Year (the "**Earn-out Determination Date**"), Borrower shall have the right once per Loan Year during each of the first three Loan Years to request the re-determination of the Qualified Loan Amount (such re-determined Qualified Loan Amount being the "**New Qualified Loan Amount**") by written notice to Lender; provided, however, Borrower may not request a re-determination during the sixty (60) day period prior to a Securitization. In the event that Borrower has not made such a request on or before the Earn-out Determination Date, then the New Qualified Loan Amount shall equal $51,748,000. Upon Borrower's requests on or before the Earn-out Determination Date, the New Qualified Loan Amount shall be equal to a loan amount that will cause the Debt Service Coverage based on the actual interest-only constant to be equal to 1.20 to 1; provided that in no event shall the New Qualified Loan Amount result in a loan amount exceeding an 80% maximum loan to value as evidenced by a new or revised appraisal prepared for Lender and paid for by Borrower, which appraisal shall be dated not earlier than sixty (60) days prior to the date a request is made for a re-determination of the Qualified Loan Amount. Each component of the New Qualified Loan

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Amount may be audited by Lender to verify its accuracy and shall be calculated based upon the annualized Underwritten NOI for the Loan Year of the request.

(ii) Commencing with the fourth (4^{th}) Loan Year, the remaining balance of the Earn-out Escrow Proceeds shall be disbursed to Borrower upon Lender's receipt of acceptable evidence showing either (i) Borrower has obtained a non-appealable judgment in its favor on all counts, or (ii) Borrower has fully and finally satisfied any judgment rendered in favor plaintiffs and that no further obligations exist with respect to the Lawsuit.

(iii) Based on the New Qualified Loan Amount, the Earn-out Proceeds shall be released effective as of the Payment Date next following thirty (30) days after Borrower's request for such re-determination of the Qualified Loan Amount as follows:

(1) If the Qualified Loan Amount produces an amount equal to or greater than the Maximum Loan Amount, the entire Earn-out Escrow Proceeds shall be disbursed to Borrower;

(2) If the New Qualified Loan Amount produces an amount less than the Maximum Loan Amount, then on each of the applicable three (3) requests by Borrower, Lender shall release to Borrower from the Earn-out Escrow Proceeds an amount equal to the lesser of (x) the difference between (A) the New Qualified Loan Amount and (B) the sum of the Qualified Loan Amount, plus the amount of any prior release from the Earn-out Escrow Proceeds and (y) the amount of the Earn-out Escrow Proceeds. If the re-determination is the final such re-determination (i.e., the three (3) re-determination or a re-determination made in connection with the final Earn-out Determination Date), the balance in the Earn-out Escrow Fund for which Borrower has not qualified shall be held in the Earn-out Escrow Fund as additional security for the Loan; and

(3) If an Event of Default has occurred and remains uncured as of the Earn-out Determination Date, the Earn-out Escrow Proceeds shall be applied in Lender's sole discretion towards payment of any of Borrower's obligations under or in connection with the Loan.

Any amount applied pursuant to this Section 2.5 to reduce the principal balance of the Loan shall be referred to herein as the "Earn-out Principal Paydown Amount."

(d) Borrower shall make available to Lender, or cause to be made available to Lender, reasonable access to the Project and all documentation Lender deems necessary to conduct the audit of Borrower's operation of the Project, including, without limitation, an appraisal of the Project acceptable to Lender. Borrower shall execute and deliver such modification agreements and other documents as Lender may reasonably require in connection

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with the disbursement of the Earn-out Escrow Proceeds, including evidence of title continuation or of an endorsement to Lender's title insurance policy stating that since the original closing, there has been no material adverse change in the state of title and no exceptions not theretofore approved by Lender, which endorsement shall provide to the effect that the disbursement of any Earn-out Escrow Proceeds does not modify the coverage and priority under Lender's loan policy.

(e) Borrower shall pay all actual third-party costs and expenses of Lender in connection with the determination of the New Qualified Loan Amount, including reasonable attorneys' fees, title insurance premiums, and hedge losses as determined by Lender in the event the Loan has not been sold in a Securitization. The Earn-out Escrow Proceeds shall be disbursed to pay such costs and expenses to which Lender is entitled pursuant to this Section 2.5(e) and any Earn-out Yield Maintenance Amount due in connection with an Earn-out Principal Paydown Amount pursuant to Section 2.5(c) hereof. As a condition to the release of the Earn-out Escrow Proceeds or application thereof to the principal balance of the Loan, Borrower and/or Joinder Party shall, immediately upon demand by Lender, pay to Lender the amounts by which the sum of such costs and expenses and the Earn-out Yield Maintenance Amount exceed the Earn-out Escrow Proceeds, and failure to do so shall constitute an Event of Default hereunder.

(f) Lender shall have no obligation to release all or any portion of the Earn-out Escrow Proceeds at any time during which an Event of Default or Potential Default exists. No release of all or any portion of the Earn-out Escrow Proceeds made by Lender at the time when a Potential Default or Event of Default has occurred and is then continuing shall be deemed a waiver or cure by Lender of that Potential Default or Event of Default, nor shall Lender's rights and remedies be prejudiced in any manner thereby. Lender shall have no obligation to extend the Earn-out Determination Date.

ARTICLE 3
INSURANCE, CONDEMNATION, AND IMPOUNDS

Section 3.1 **Insurance.** Borrower shall maintain insurance as follows:

(a) **Casualty; Business Interruption**. Borrower shall keep the Project insured against damage by fire and the other hazards covered by a standard extended coverage and all-risk insurance policy for the full insurable value thereof on a replacement cost claim recovery basis (without reduction for depreciation or co-insurance), and shall maintain such other casualty insurance as reasonably required by Lender. Such insurance shall not be required to include coverage against acts of terrorism. Lender reserves the right to require from time to time the following additional insurance: boiler and machinery; flood; earthquake/sinkhole; worker's compensation; and/or building law or ordinance. Borrower shall keep the Project insured against loss by flood if the Project is located currently or at any time in the future in an area identified by the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994 (as such acts may from time to time be amended) in an amount at least equal to the lesser of (i) the maximum amount of the Loan or (ii) the maximum limit of coverage available under said acts. Any such flood insurance policy shall be issued in accordance with the requirements and

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current guidelines of the Federal Insurance Administration. Borrower shall maintain use and occupancy insurance covering, as applicable, rental income or business interruption, with coverage in an amount not less than twelve (12) months anticipated gross rental income or gross business earnings, as applicable in each case, attributable to the Project. Borrower shall not maintain any separate or additional insurance which is contributing in the event of loss unless it is properly endorsed and otherwise reasonably satisfactory to Lender in all respects. The proceeds of insurance paid on account of any damage or destruction to the Project shall be paid to Lender to be applied as provided in Section 3.2.

(b) **Liability**. Borrower shall maintain (i) commercial general liability insurance with respect to the Project providing for limits of liability of not less than $5,000,000 for both injury to or death of a person and for property damage per occurrence, and (ii) other liability insurance as reasonably required by Lender.

(c) **Form and Quality**. All insurance policies shall be endorsed in form and substance acceptable to Lender to name Lender as an additional insured, loss payee or mortgagee thereunder, as its interest may appear, with loss payable to Lender, without contribution, under a standard New York (or local equivalent) mortgagee clause. All such insurance policies and endorsements shall be fully paid for and contain such provisions and expiration dates and be in such form and issued by such insurance companies licensed to do business in the State, with a general company and financial size rating of "A-IX" or better as established by Best's Rating Guide and "AA" or better by Standard & Poor's Ratings Group. Each policy shall provide that such policy may not be canceled or materially changed except upon thirty (30) days' prior written notice of intention of non-renewal, cancellation or material change to Lender and that no act or thing done by Borrower shall invalidate any policy as against Lender. Blanket policies shall be permitted only if (i) Lender receives appropriate endorsements and/or duplicate policies containing Lender's right to continue coverage on a pro rata pass-through basis and that coverage will not be affected by any loss on other properties covered by the policies and (ii) the policy contains a sublimit equal to the replacement cost of the Project in an amount approved by Lender which is expressly allocated for the Project, and any such policy shall in all other respects comply with the requirements of this Section. Borrower shall pay the premiums for such policies (the "**Insurance Premiums**") as the same become due and payable annually in advance. If Borrower fails to do so, or if Borrower fails to deposit funds into the Tax and Insurance Escrow Fund sufficient to permit Lender to pay the premiums when due, Lender may obtain such insurance and pay the premium therefor and Borrower shall, on demand, reimburse Lender for all expenses incurred in connection therewith. Borrower shall assign the policies or proofs of insurance to Lender, in such manner and form that Lender and its successors and assigns shall at all times have and hold the same as security for the payment of the Loan. Borrower shall deliver copies of all original policies certified to Lender by the insurance company or authorized agent as being true copies, together with the endorsements required hereunder. The proceeds of insurance policies coming into the possession of Lender shall not be deemed trust funds, and Lender shall be entitled to apply such proceeds as herein provided.

(d) **Adjustments**. Borrower shall give immediate written notice of any loss to the insurance carrier and to Lender. Borrower hereby irrevocably authorizes and empowers Lender,

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as attorney-in-fact for Borrower coupled with an interest, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's reasonable expenses incurred in the collection of such proceeds. Nothing contained in this Section 3.1(d), however, shall require Lender to incur any expense or take any action hereunder.

Section 3.2 Use and Application of Insurance Proceeds.

(a) If the Project shall be damaged or destroyed, in whole or in part, by fire or other casualty (a "**Casualty**"), Borrower shall give prompt notice thereof to Lender. Following the occurrence of a Casualty, Borrower, regardless of whether insurance proceeds are available, shall promptly proceed to restore, repair, replace or rebuild the same to be of at least equal value and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with applicable law.

(b) Lender shall apply insurance proceeds to costs of restoring the Project or to the payment of the Loan as follows:

(i) if the loss is less than or equal to $100,000, Lender shall apply the insurance proceeds to restoration provided (A) no Event of Default or Potential Default exists, and (B) Borrower promptly commences and is diligently pursuing restoration of the Project;

(ii) if the loss exceeds $100,000 but is not more than 25% of the replacement value of the improvements, Lender shall apply the insurance proceeds to restoration provided that (A) at all times during such restoration no Event of Default or Potential Default exists; (B) Lender determines throughout the restoration that there are sufficient funds available to restore and repair the Project to a condition approved by Lender; (C) Lender determines that the net operating income of the Project during restoration, taking into account rent loss or business interruption insurance, will be sufficient to pay Debt Service; (D) Lender determines (based on leases which will remain in effect after restoration is complete if the Project is not a multi-family project) that after restoration the ratio of net operating income to Debt Service will equal at least the ratio that existed on the Closing Date; (E) Lender determines that the ratio of the outstanding principal balance of the Loan to appraised value of the project after restoration will not exceed the loan-to-value ratio that existed on the Closing Date; (F) Lender determines that restoration and repair of the Project to a condition approved by Lender will be completed within six months after the date of loss or casualty and in any event ninety (90) days prior to the Maturity Date; (G) Borrower promptly commences and is diligently pursuing restoration of the Project; and (H) the Project after the restoration will be in compliance with and permitted under all applicable zoning, building and land use laws, rules, regulations and ordinances; and

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(iii) if the conditions set forth in (i) and (ii) above are not satisfied in Lender's reasonable discretion, Lender may apply any insurance proceeds it may receive to the payment of the Loan or allow all or a portion of such proceeds to be used for the restoration of the Project.

(c) Insurance proceeds applied to restoration will be disbursed on receipt of reasonably satisfactory plans and specifications, contracts and subcontracts, schedules, budgets, lien waivers and architects' certificates, and otherwise in accordance with prudent commercial construction lending practices for construction loan advances (including appropriate retainages to ensure that all work is completed in a workmanlike manner).

Section 3.3 **Condemnation Awards.** Borrower shall promptly give Lender written notice of the actual or threatened commencement of any condemnation or eminent domain proceeding (a "**Condemnation**") and shall deliver to Lender copies of any and all papers served in connection with such Condemnation. Following the occurrence of a Condemnation, Borrower, regardless of whether any award or compensation (an "**Award**") is available, shall promptly proceed to restore, repair, replace or rebuild the same to the extent practicable to be of at least equal value and of substantially the same character as prior to such Condemnation, all to be effected in accordance with applicable law. Lender may participate in any such proceeding and Borrower will deliver to Lender all instruments necessary or required by Lender to permit such participation. Without Lender's prior consent, Borrower (a) shall not agree to any Award, and shall not take any action or (b) fail to take any action which would cause the Award to be determined. All Awards for the taking or purchase in lieu of condemnation of the Project or any part thereof are hereby assigned to and shall be paid to Lender. Borrower authorizes Lender to collect and receive such Awards, to give proper receipts and acquittances therefor, and in Lender's sole discretion to apply the same toward the payment of the Loan, notwithstanding that the Loan may not then be due and payable, or to the restoration of the Project; provided, however, if the Award is less than or equal to $100,000, and if more than $100,000, the terms and conditions contained in Section 3.2(b)(ii) applicable to insurance proceeds are satisfied, and Borrower requests that such proceeds be used for non-structural site improvements (such as landscape, driveway, walkway and parking area repairs) required to be made as a result of such condemnation, Lender will apply the Award to such restoration in accordance with disbursement procedures applicable to insurance proceeds provided there exists no Potential Default or Event of Default. Borrower, upon request by Lender, shall execute all instruments requested to confirm the assignment of the Awards to Lender, free and clear of all liens, charges or encumbrances.

Section 3.4 **Impounds.** Borrower shall deposit with Lender, monthly, (a) one-twelfth (1/12th) of the Taxes that Lender estimates will be payable during the next ensuing twelve (12) months in order to accumulate with Lender sufficient funds to pay all such Taxes at least thirty (30) days prior to their respective due dates, and (b) in the event Borrower fails to provide evidence to Lender of annual payment of Insurance Premiums prior to the expiration thereof, one-twelfth (1/12th) of the Insurance Premiums that Lender estimates will be payable for the renewal of the coverage afforded by the insurance policies required by Lender upon the expiration thereof in order to accumulate with Lender sufficient funds to pay all such Insurance

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Premiums at least thirty (30) days prior to expiration (said amounts in (a) and (b) above hereinafter called the "**Tax and Insurance Escrow Fund**"). At or before the advance of the Loan, Borrower shall deposit with Lender a sum of money which together with the monthly installments will be sufficient to make each of such payments thirty (30) days prior to the date any delinquency or penalty becomes due with respect to such payments. Deposits shall be made on the basis of Lender's estimate from time to time of the charges for the current year (after giving effect to any reassessment or, at Lender's election, on the basis of the charges for the prior year, with adjustments when the charges are fixed for the then current year). All funds so deposited shall be held by Lender, without interest, and may be commingled with Lender's general funds. Borrower hereby grants to Lender a security interest in all funds so deposited with Lender for the purpose of securing the Loan. While an Event of Default exists, the funds deposited may be applied in payment of the charges for which such funds have been deposited, or to the payment of the Loan or any other charges affecting the security of Lender, as Lender may elect, but no such application shall be deemed to have been made by operation of law or otherwise until actually made by Lender. Borrower shall furnish Lender with bills for the charges for which such deposits are required at least thirty (30) days prior to the date on which the charges first become payable. If at any time the amount on deposit with Lender, together with amounts to be deposited by Borrower before such charges are payable, is insufficient to pay such charges, Borrower shall deposit any deficiency with Lender immediately upon demand. Lender shall pay such charges when the amount on deposit with Lender is sufficient to pay such charges and Lender has received a bill for such charges.

ARTICLE 4
ENVIRONMENTAL MATTERS

Section 4.1 **Certain Definitions**. As used herein, the following terms have the meanings indicated:

(a) "**Environmental Laws**" means any federal, state or local law (whether imposed by statute, ordinance, rule, regulation, administrative or judicial order, or common law), now or hereafter enacted, governing health, safety, or industrial hygiene (to the extent such laws govern environmental matters), the environment or natural resources, or Hazardous Materials, including, without limitation, such laws governing or regulating (i) the use, generation, storage, removal, recovery, treatment, handling, transport, disposal, control, release, discharge of, or exposure to, Hazardous Materials, (ii) the transfer of property upon a negative declaration or other approval of a governmental authority of the environmental condition of such property, or (iii) requiring notification or disclosure of releases of Hazardous Materials or other environmental conditions whether or not in connection with a transfer of title to or interest in property.

(b) "**Hazardous Materials**" means (i) petroleum or chemical products, whether in liquid, solid, or gaseous form, or any fraction or by-product thereof, (ii) asbestos or asbestos-containing materials, (iii) polychlorinated biphenyls (pcbs), (iv) radon gas, (v) underground storage tanks, (vi)any explosive or radioactive substances, (vii) lead or lead-based paint, or (viii) any other substance, material, waste or mixture which is or shall be listed, defined, or otherwise determined by any governmental authority to be hazardous, toxic,

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dangerous or otherwise regulated, controlled or giving rise to liability under any Environmental Laws.

Section 4.2 **Representations and Warranties on Environmental Matters**. To the best of Borrower's knowledge, except as set forth in the Site Assessment, (a) no Hazardous Material is now or was formerly used, stored, generated, manufactured, installed, treated, discharged, disposed of or otherwise present at or about the Project or any property adjacent to the Project (except for cleaning and other products currently used in connection with the routine maintenance or repair of the Project in full compliance with Environmental Laws and except for the retail sale by existing tenants of Hazardous Materials customarily sold in the ordinary course of business for similar tenants in full compliance with Environmental Laws pursuant to a right to do so under such tenant's lease) and no Hazardous Material was removed or transported from the Project, (b) all permits, licenses, approvals and filings required by Environmental Laws have been obtained, and the use, operation and condition of the Project does not, and did not previously, violate any Environmental Laws, (c) no civil, criminal or administrative action, suit, claim, hearing, investigation or proceeding has been brought or been threatened, nor have any settlements been reached by or with any parties or any liens imposed in connection with the Project concerning Hazardous Materials or Environmental Laws; and (d) no underground storage tanks exist on any part of the Project.

Section 4.3 **Covenants on Environmental Matters**.

(a) Borrower shall (i) comply strictly and in all respects with applicable Environmental Laws; (ii) notify Lender immediately upon Borrower's discovery of any spill, discharge, release or presence of any Hazardous Material at, upon, under, within, contiguous to or otherwise affecting the Project; (iii) promptly remove such Hazardous Materials and remediate the Project in full compliance with Environmental Laws or as reasonably required by Lender based upon the recommendations and specifications of an independent environmental consultant approved by Lender; and (iv) promptly forward to Lender copies of all orders, notices, permits, applications or other communications and reports in connection with any spill, discharge, release or the presence of any Hazardous Material or any other matters relating to the Environmental Laws or any similar laws or regulations, as they may affect the Project or Borrower.

(b) Borrower shall not cause, shall prohibit any other Person within the control of Borrower from causing, and shall use prudent, commercially reasonable efforts to prohibit other Persons (including tenants) from (i) causing any spill, discharge or release, or the use, storage, generation, manufacture, installation, or disposal, of any Hazardous Materials at, upon, under, within or about the Project or the transportation of any Hazardous Materials to or from the Project (except for cleaning and other products used in connection with routine maintenance or repair of the Project in full compliance with Environmental Laws), (ii) installing any underground storage tanks at the Project, or (iii) conducting any activity that requires a permit or other authorization under Environmental Laws relating to Hazardous Materials, provided that the maintenance of the existing sewer facility on the Project shall be permitted so long as Borrower complies with all applicable laws.

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(c) Borrower shall provide to Lender, at Borrower's expense promptly upon the written request of Lender from time to time, a Site Assessment or, if required by Lender, an update to any existing Site Assessment, to assess the presence or absence of any Hazardous Materials and the potential costs in connection with abatement, cleanup or removal of any Hazardous Materials found on, under, at or within the Project. Borrower shall pay the cost of no more than one such Site Assessment or update in any twelve (12)-month period, unless Lender's request for a Site Assessment is based on information provided under Section 4.3(a), a reasonable suspicion of Hazardous Materials at or near the Project, a breach of representations under Section 4.2, or an Event of Default, in which case any such Site Assessment or update shall be at Borrower's expense.

(d) Within sixty (60) days after the date hereof, Borrower shall cause to be prepared by environmental engineers approved by Lender and deliver to Lender, an Operations and Maintenance Program for the removal or encapsulation of, or other action for handling, asbestos-containing materials and lead-based paint at the Project containing, at a minimum the items recommended in the Environmental Protection Agency's guide to managing asbestos and lead-based paint in buildings (the "**O&M Program**"). Borrower shall immediately implement the O&M Program. Prior to the commencement of any construction, rehabilitation, modification or renovation at the Project, including any such work which requires the removal of any materials or improvements of any kind in connection with the ceiling, subflooring, floor tiles, baseboard, wall texture, pipe insulation and other portions of any Project containing asbestos-containing materials or lead-based paint (the "**Work**"), all Work shall be implemented in accordance with the procedures and programs in the O&M Program and all applicable governmental requirements. The O&M Program and work resulting therefrom shall be conducted by an accredited, licensed, abatement contractor using state-of-the-art work practices and procedures and shall include all monitoring and project management performed by an accredited asbestos and lead-based paint consultant. Borrower shall deliver to Lender promptly when available, copies of all reports, notices, submittals, permits, licenses, and certificates relating to the O&M Program. Until all matters in the O&M Program have been satisfied, Borrower shall deliver to Lender, on or before the first day of each Loan Year, evidence of an annual inspection by the environmental engineers for the Project, addressing the status of affected space requiring Work or other action with respect to Hazardous Materials. Borrower shall follow the procedures of the O&M Program with respect to any additional Hazardous Materials revealed by any annual inspection. All fees and expenses incurred for all such inspections and review and approval of the O&M Program shall be paid by Borrower.

Section 4.4 **Allocation of Risks and Indemnity**. As between Borrower and Lender, all risk of loss associated with non-compliance with Environmental Laws, or with the presence of any Hazardous Material at, upon, within, contiguous to or otherwise affecting the Project, shall lie solely with Borrower. Accordingly, Borrower shall bear all risks and costs associated with any loss (including any loss in value attributable to Hazardous Materials), damage or liability therefrom, including all costs of removal of Hazardous Materials or other remediation required by Lender or by law. Borrower shall indemnify, defend and hold Lender and its shareholders, directors, officers, employees and agents harmless from and against all loss, liabilities, damages, claims, costs and expenses (including reasonable costs of defense and

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consultant fees, investigation and laboratory fees, court costs, and other litigation expenses) arising out of or associated, in any way, with (a) the non-compliance with Environmental Laws, or (b) the existence of Hazardous Materials in, on, or about the Project, (c) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to Hazardous Materials; (d) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, (e) a breach of any representation, warranty or covenant contained in this Article 4, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law, or (f) the imposition of any environmental lien encumbering the Project; provided, however, Borrower shall not be liable under such indemnification to the extent such loss, liability, damage, claim, cost or expense results solely from Lender's gross negligence or willful misconduct. Borrower's obligations under this Section 4.4 shall arise whether or not any governmental authority has taken or threatened any action in connection with the presence of any Hazardous Material, and whether or not the existence of any such Hazardous Material or potential liability on account thereof is disclosed in the Site Assessment and shall continue notwithstanding the repayment of the Loan or any transfer or sale of any right, title and interest in the Project (by foreclosure, deed in lieu of foreclosure or otherwise). Additionally, if any Hazardous Materials affect or threaten to affect the Project, Lender may (but shall not be obligated to) give such notices and take such actions as it deems necessary or advisable at the expense of the Borrower in order to abate the discharge of any Hazardous Materials or remove the Hazardous Materials. Any amounts payable to Lender by reason of the application of this Section 4.4 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. The obligations and liabilities of Borrower under this Section 4.4 shall survive any termination, satisfaction, assignment, entry of a judgment of foreclosure or delivery of a deed in lieu of foreclosure.

Section 4.5 **No Waiver**. Notwithstanding any provision in this Article 4 or elsewhere in the Loan Documents, or any rights or remedies granted by the Environmental Indemnity Agreement or the Loan Documents, Lender does not waive and expressly reserves all rights and benefits now or hereafter accruing to Lender under the "security interest" or "secured creditor" exception under applicable Environmental Laws, as the same may be amended. No action taken by Lender pursuant to the Environmental Indemnity Agreement or the Loan Documents shall be deemed or construed to be a waiver or relinquishment of any such rights or benefits under the "security interest exception."

ARTICLE 5
LEASING MATTERS

Section 5.1 **Representations and Warranties on Leases**. Borrower represents and warrants to Lender with respect to leases of the Project that: (a) the rent roll delivered to Lender is true and correct, and the leases are valid and in and full force and effect; (b) the leases (including amendments) are in writing, and there are no oral agreements with respect thereto; (c) the copies of the leases delivered to Lender are true and complete; (d) neither the landlord nor any tenant is in default under any of the leases; (e) Borrower has no knowledge of any notice of termination or default with respect to any lease; (f) Borrower has not assigned or pledged any of

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the leases, the rents or any interests therein except to Lender; (g) no tenant or other party has an option to purchase all or any portion of the Project; (h) no tenant has the right to terminate its lease prior to expiration of the stated term of such lease; (i) no tenant has prepaid more than one month's rent in advance (except for bona fide security deposits not in excess of an amount equal to two month's rent); and (j) all existing leases are subordinate to the Mortgage either pursuant to their terms or a recorded subordination agreement.

Section 5.2 **Standard Lease Form; Approval Rights**. All leases and other rental arrangements shall in all respects be approved by Lender and shall be on a standard lease form approved by Lender with no material modifications (except as approved by Lender, which approval will not be unreasonably withheld or delayed). The retail lease form shall provide that (a) the lease is subordinate to the Mortgage, (b) the tenant shall attorn to Lender, and (c) that any cancellation, surrender, or amendment of such lease without the prior written consent of Lender shall be voidable by Lender. Borrower shall hold, in trust, all tenant security deposits in a segregated account, and, to the extent required by applicable law, shall not commingle any such funds with any other funds of Borrower. Within ten (10) days after Lender's request, Borrower shall furnish to Lender a statement of all tenant security deposits, and copies of all leases not previously delivered to Lender, certified by Borrower as being true and correct. Notwithstanding anything contained in the Loan Documents, Lender's approval shall not be required for future leases or lease extensions if the following conditions are satisfied: (i) there exists no Potential Default or Event of Default; (ii) the lease is on the standard lease form approved by Lender with no material modifications; (iii) the lease does not conflict with any restrictive covenant affecting the Project or any other lease for space in the Project; and (iv) the effective rental rate is a market rate. Lender may evaluate potential retail leases with respect to, among other factors, overall tenant mix, compatibility of intended use with the Project's market niche, cost of tenant improvements, and/or contingency, go dark and lease termination rights. Leases that require the approval of Lender shall be submitted to Lender at least thirty (30) days prior to the proposed execution date. All costs and expenses incurred by Lender in its review and approval of any lease shall be paid by Borrower promptly upon request.

Section 5.3 **Covenants**. Borrower (a) shall perform the obligations which Borrower is required to perform under the leases; (b) shall enforce the obligations to be performed by the tenants; (c) shall promptly furnish to Lender any notice of default or termination received by Borrower from any tenant, and any notice of default or termination given by Borrower to any tenant; (d) shall not collect any rents for more than thirty (30) days in advance of the time when the same shall become due, except for bona fide security deposits not in excess of an amount equal to two month's rent; (e) shall not enter into any ground lease or master lease of any part of the Project; (f) shall not further assign or encumber any lease; (g) shall not, except with Lender's prior written consent, cancel or accept surrender or termination of any lease except for default in the ordinary course of prudent property management; (h) shall not lease or permit the use of any space in the Project as an on-site dry cleaning plant; (i) shall not, except with Lender's prior written consent, modify or amend any lease (except for minor modifications and amendments entered into in the ordinary course of business, consistent with prudent property management practices, not affecting the economic terms of the lease); (j) shall assign to Lender any letter of credit evidencing a security deposit on such terms as may be required by Lender and shall deliver

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the original of such letter(s) of credit to Lender; and (k) with respect to the retail property, shall deposit with Lender any lease termination or cancellation fees which shall be held in the Rollover Escrow Fund. Any action in violation of clauses (e), (f), (g), and (h) of this Section 5.3 shall be void at the election of Lender.

Section 5.4 **Tenant Estoppels.** At Lender's request, Borrower shall obtain and furnish to Lender, written estoppels in form and substance reasonably satisfactory to Lender, executed by tenants under retail leases in the Project and confirming the term, rent, and other provisions and matters relating to the leases.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

Borrower represents, warrants and covenants to Lender that:

Section 6.1 **Organization, Power and Authority**. Borrower and each Borrower Party is duly organized, validly existing and in good standing under the laws of the state of its formation or existence, and is in compliance with all legal requirements applicable to doing business in the state in which the Project is located. Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code. Borrower and each Borrower Party has only one state of incorporation or organization, which is set forth in ***Schedule III***. All other information regarding Borrower and each Borrower Party contained in ***Schedule III***, including the ownership structure of Borrower and its constituent entities, is true and correct as of the Closing Date.

Section 6.2 **Validity of Loan Documents**. The execution, delivery and performance by Borrower and each Borrower Party of the Loan Documents: (a) are duly authorized and do not require the consent or approval of any other party or governmental authority which has not been obtained; and (b) will not violate any law or result in the imposition of any lien, charge or encumbrance upon the assets of any such party, except as contemplated by the Loan Documents. The Loan Documents constitute the legal, valid and binding obligations of Borrower and each Borrower Party, enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency, or similar laws generally affecting the enforcement of creditors' rights.

Section 6.3 **Liabilities; Litigation**.

(a) The financial statements delivered by Borrower and each Borrower Party are true and correct with no significant change since the date of preparation. Except as disclosed in such financial statements, there are no liabilities (fixed or contingent) affecting the Project, Borrower or any Borrower Party. Except as disclosed in such financial statements, there is no litigation, administrative proceeding, investigation or other legal action (including any proceeding under any state or federal bankruptcy or insolvency law) pending or, to the knowledge of Borrower, threatened, against the Project, Borrower or any Borrower Party which if adversely determined could have a material adverse effect on such party, the Project or the Loan.

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(b) Neither Borrower nor any Borrower Party is contemplating either the filing of a petition by it under state or federal bankruptcy or insolvency laws or the liquidation of all or a major portion of its assets or property, and neither Borrower nor any Borrower Party has knowledge of any Person contemplating the filing of any such petition against it.

Section 6.4 **Taxes and Assessments**. The Project is comprised of one or more parcels, each of which constitutes a separate tax lot and none of which constitutes a portion of any other tax lot. There are no pending or, to Borrower's best knowledge, proposed, special or other assessments for public improvements or otherwise affecting the Project, nor are there any contemplated improvements to the Project that may result in such special or other assessments.

Section 6.5 **Other Agreements; Defaults**. Neither Borrower nor any Borrower Party is a party to any agreement or instrument or subject to any court order, injunction, permit, or restriction which might adversely affect the Project or the business, operations, or condition (financial or otherwise) of Borrower or any Borrower Party. Neither Borrower nor any Borrower Party is in violation of any agreement which violation would have an adverse effect on the Project, Borrower, or any Borrower Party or Borrower's or any Borrower Party's business, properties, or assets, operations or condition, financial or otherwise.

Section 6.6 **Compliance with Law**.

(a) Borrower and each Borrower Party have all requisite licenses, permits, franchises, qualifications, certificates of occupancy or other governmental authorizations to own, lease and operate the Project and carry on its business, and the Project is in compliance with all applicable legal requirements and is free of structural defects, and all building systems contained therein are in good working order, subject to ordinary wear and tear. The Project does not constitute, in whole or in part, a legally non-conforming use under applicable legal requirements;

(b) No condemnation has been commenced or, to Borrower's knowledge, is contemplated with respect to all or any portion of the Project or for the relocation of roadways providing access to the Project; and

(c) The Project has adequate rights of access to public ways and is served by adequate water, sewer, sanitary sewer and storm drain facilities. All public utilities necessary or convenient to the full use and enjoyment of the Project are located in the public right-of-way abutting the Project, and all such utilities are connected so as to serve the Project without passing over other property, except to the extent such other property is subject to a perpetual easement for such utility benefiting the Project. All roads necessary for the full utilization of the Project for its current purpose have been completed and dedicated to public use and accepted by all governmental authorities.

Section 6.7 **Location of Borrower**. Borrower's principal place of business and chief executive offices are located at the address stated in Section 11.1.

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Section 6.8 ERISA.

(a) As of the date hereof and throughout the term of the Loan, (i) Borrower is not and will not be an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), which is subject to Title I of ERISA, and (ii) the assets of Borrower do not and will not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA; and

(b) As of the date hereof and throughout the term of the Loan (i) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(3) of ERISA and (ii) transactions by or with Borrower are not and will not be subject to state statutes applicable to Borrower regulating investments of and fiduciary obligations with respect to governmental plans.

Section 6.9 Forfeiture. There has not been and shall never be committed by Borrower or any other person in occupancy of or involved with the operation or use of the Project any act or omission affording the federal government or any state or local government the right of forfeiture as against the Project or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right of forfeiture.

Section 6.10 Tax Filings. Borrower and each Borrower Party have filed (or have obtained effective extensions for filing) all federal, state and local tax returns required to be filed and have paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments payable by Borrower and each Borrower Party, respectively. Borrower and each Borrower Party believe that their respective tax returns properly reflect the income and taxes of Borrower and each Borrower Party, respectively, for the periods covered thereby, subject only to reasonable adjustments required by the Internal Revenue Service or other applicable tax authority upon audit.

Section 6.11 Solvency. Giving effect to the Loan, the fair saleable value of Borrower's assets exceeds and will, immediately following the making of the Loan, exceed Borrower's total liabilities, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. The fair saleable value of Borrower's assets is and will, immediately following the making of the Loan, be greater than Borrower's probable liabilities, including the maximum amount of its contingent liabilities on its Debts as such Debts become absolute and matured, Borrower's assets do not and, immediately following the making of the Loan will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur Debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such Debts as they mature (taking into account the timing and amounts of cash to be received by Borrower and the amounts to be payable on or in respect of obligations of Borrower). Except as expressly disclosed to Lender in writing, no petition in bankruptcy has been filed against Borrower or any Borrower Party in the last seven (7) years, and neither Borrower or any Borrower Party in the last seven (7) years has ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for the benefit of debtors.

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Section 6.12 Full and Accurate Disclosure. No statement of fact made by or on behalf of Borrower or any Borrower Party in this Agreement or in any of the other Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no fact presently known to Borrower which has not been disclosed to Lender which adversely affects, nor as far as Borrower can foresee, might adversely affect, the Project or the business, operations or condition (financial or otherwise) of Borrower or any Borrower Party.

Section 6.13 Flood Zone. No portion of the improvements comprising the Project is located in an area identified by the Secretary of Housing and Urban Development or any successor thereto as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Act of 1994, as amended, or any successor law, or, if located within any such area, Borrower has obtained and will maintain the insurance prescribed in Section 3.1 hereof.

Section 6.14 Single Purpose Entity/Separateness. Borrower represents, warrants and covenants as follows:

(a) Borrower has not owned, does not own, and will not own any asset or property other than (i) the Project, and (ii) incidental personal property necessary for the ownership or operation of the Project.

(b) Borrower has not engaged in and will not engage in any business other than the ownership, management and operation of the Project and Borrower will conduct and operate its business as presently conducted and operated.

(c) Borrower has not entered into and will not enter into any contract or agreement with any Affiliate of the Borrower, any constituent party of Borrower, or any Affiliate of any constituent party, except upon terms and conditions that have been, are and shall be intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any such party.

(d) Borrower has not incurred and will not incur any Debt other than (i) the Loan, (ii) trade and operational debt incurred in the ordinary course of business with trade creditors and in amounts as are normal and reasonable under the circumstances, provided such debt is not evidenced by a note and is paid when due, and (iii) Debt incurred in the financing of equipment and other personal property used on the Project. No indebtedness other than the Loan may be secured (subordinate or pari passu) by the Project. Notwithstanding anything to the contrary contained herein, Lender shall allow the partners/members of Borrower to incur mezzanine debt to a mezzanine lender approved by Lender (the "**Mezzanine Lender**") and the applicable Rating Agencies not to exceed the principal amount which would cause the aggregate indebtedness evidenced by the Loan and the Mezzanine Loan (i) to exceed a loan-to-value ratio of 80% or (ii) achieve not less than a Debt Service Coverage of 1.2 to 1.0 (the "**Mezzanine Loan**"). The Mezzanine Loan may be secured by a pledge of partnership/membership interests in Borrower and by any assets of the partners/members other than the Project and subject to an intercreditor agreement approved by Lender. The Mezzanine Loan documents may permit Mezzanine Lender

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(i) to succeed to the interests of such partner(s)/member(s) upon a default under the Mezzanine Loan documents; (ii) following succession to such interest, to remove the general partner/managing member of Borrower and replace it with either Mezzanine Lender or an entity controlled by Mezzanine Lender; (iii) to replace the general partner/managing member of Borrower with any entity owned or controlled by an entity that owns or manages or controls entities that own or manage properties such as the Project; and (iv) assign the Mezzanine Loan documents to another party approved by Lender; provided, however, that replacement or assignment pursuant to clause (iii) and (iv) shall, if required by the applicable Rating Agencies and/or the pooling and servicing agreement relating to the Secondary Market Transaction, be subject to receipt by Lender of evidence in writing from the applicable Rating Agencies to the effect that such replacement will not result in a qualification, downgrade, or withdrawal of any rating in effect immediately prior to such replacement or assignment for any securities issued in connection with a Secondary Market Transaction, or that such replacement or assignment is otherwise approved by the applicable Rating Agencies. All costs and expenses, including attorneys fees and expenses and rating agency fees and expenses, incurred by Lender in connection with any review or approval of the Mezzanine Loan, Mezzanine Lender, or replacement partners/members of Borrower shall be paid by Borrower.

(e) Borrower has not made and will not make any loans or advances to any third party (including any affiliate or constituent party or any affiliate of any constituent party), and has not and shall not acquire obligations or securities of its affiliates or any constituent party.

(f) Borrower has been, is and will remain solvent and Borrower has paid, and will pay, its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its own funds and assets as the same have become due and as same shall become due.

(g) Borrower has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and Borrower will not, nor will Borrower permit any constituent party to amend, modify or otherwise change the partnership certificate, partnership agreement, articles of incorporation and bylaws, operating agreement, trust or other organizational documents of Borrower or such constituent party without the prior written consent of Lender.

(h) Borrower has maintained, and will maintain, all of its books, records, financial statements and bank accounts separate from those of its Affiliates and any constituent party and Borrower will file its own tax returns. Borrower shall maintain its books, records, resolutions and agreements as official records.

(i) Borrower has been and will be, and at all times has held itself out and will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate of Borrower, any constituent party of Borrower, or any Affiliate of any constituent party), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its Affiliates as a division or part of the other and shall maintain and utilize a separate telephone number, if any, and separate stationery, invoices and checks.

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(j) Borrower has maintained, and will maintain, adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations.

(k) Neither Borrower nor any constituent party will seek the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Borrower.

(l) Borrower has not commingled and will not commingle the funds and other assets of Borrower with those of any Affiliate or constituent party, or any Affiliate of any constituent party, or any other person.

(m) Borrower has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or constituent party, or any Affiliate of any constituent party, or any other person.

(n) Borrower has not, and Borrower does not and will not hold itself out to be responsible for the debts or obligations of any other person.

(o) **SPE Party**. If Borrower is a limited partnership or limited liability company, then unless Borrower is an Acceptable Delaware limited liability company (as defined below), Borrower shall at all times have a managing member/general partner (which shall be its sole general partner) ("**SPE Party**") with provisions in its organizational documents limiting its purpose and authority to those set forth in clauses (a) - (c) above, modified to allow such SPE Party to act as managing member/general partner of Borrower and requiring it to have an Independent Director/Manager so long as any obligation under the Loan remains outstanding, and to engage in no other business or activity.

(p) **Independent Director/Manager**. As long as any obligation under the Loan is outstanding, the Borrower/SPE Party at all times shall have an Independent Director/Manager. To the fullest extent permitted by law, the Independent Director/Manager shall consider only the interests of the Borrower and its creditors in acting or otherwise voting on any Material Action. No resignation or removal of an Independent Director/Manager, and no appointment of a successor Independent Director/Manager, shall be effective until such successor shall have accepted his or her appointment as an Independent Director/Manager by a written instrument. In the event of a vacancy in the position of Independent Director/Manager, the Borrower or SPE Party shall, as soon as practicable, appoint a successor Independent Director/Manager.

"**Independent Director/Manager**" means a natural Person who is not at the time of initial appointment as a manager/director or at any time while serving as a manager/director of the Borrower/SPE Party has not been at any time during the five (5) years preceding such initial appointment:

(i) a stockholder, director, manager (with the exception of serving as an Independent Director/Manager of the Borrower/SPE Party), officer, trustee, employee, partner, member, attorney or counsel of the Borrower, or any Affiliate of either of them;

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(ii) a creditor, customer, supplier, or other Person who derives any of its purchases or revenues from its activities with the Borrower or any Affiliate;

(iii) a Person Controlling or under common Control with any Person excluded from serving as Independent Director/Manager under (i) or (ii); or

(iv) a member of the immediate family by blood or marriage of any Person excluded from serving as Independent Director/Manager under (i) or (ii).

A natural Person who satisfies the foregoing definition other than subparagraph (ii) shall not be disqualified from serving as an Independent Director/Manager of the Borrower/SPE Party if such individual is an Independent Director/Manager provided by a nationally-recognized company that provides professional independent managers/directors (a "**Professional Independent Director/Manager**") and other corporate services in the ordinary course of its business. A natural Person who otherwise satisfies the foregoing definition other than subparagraph (a) by reason of being the independent director or manager of a "special purpose entity" affiliated with the Borrower shall not be disqualified from serving as an Independent Director/Manager of the Borrower/SPE Party if such individual is either (i) a Professional Independent Director/Manager or (ii) the fees that such individual earns from serving as independent manager of affiliates of the Borrower in any given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year. Notwithstanding the immediately preceding sentence, an Independent Director/Manager may not simultaneously serve as Independent Director/Manager of the Borrower/SPE Party and independent manager or director of a special purpose entity that owns a direct or indirect equity interest in the Borrower (other than the SPE Party's interest in Borrower).

For purposes of this paragraph, a "special purpose entity" is an entity whose organizational documents contain restrictions on its activities and impose requirements intended to preserve such entity's separateness that are substantially similar to the special purpose provisions of this Agreement.

"**Material Action**" means to file any insolvency, or reorganization case or proceeding, to institute proceedings to have the Borrower or any SPE Party be adjudicated bankrupt or insolvent, to institute proceedings under any applicable insolvency law, to seek any relief under any law relating to relief from debts or the protection of debtors, to consent to the filing or institution of bankruptcy or insolvency proceedings against the Borrower or any SPE Party, to file a petition seeking, or consent to, reorganization or relief with respect to the Borrower or any SPE Party under any applicable federal or state law relating to bankruptcy or insolvency, to seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official of or for the Borrower or any SPE Party or a substantial part of its property, to make any assignment for the benefit of creditors of the Borrower or any SPE Party, to admit in writing the Borrower's or any SPE Party's inability to pay its debts generally as they become due, or to take action in furtherance of any of the foregoing.

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(q) **Acceptable Delaware LLC Requirements.** In the event Borrower or the SPE Party is a limited liability company, then it must be an Acceptable Delaware LLC, and the limited liability company agreement of Borrower or the SPE Party (as applicable) (the "**LLC Agreement**") shall provide that (i) upon the occurrence of any event that causes the last remaining member of Borrower or the SPE Party (as applicable) ("**Member**") to cease to be the member of Borrower or the SPE Party (as applicable) (other than (A) upon an assignment by Member of all of its limited liability company interest in Borrower or the SPE Party (as applicable) and the admission of the transferee in accordance with the Loan Documents and the LLC Agreement, or (B) the resignation of Member and the admission of an additional member of Borrower or the SPE Party (as applicable) in accordance with the terms of the Loan Documents and the LLC Agreement), any Person acting as Independent Director/Manager of Borrower or the SPE Party (as applicable) shall, without any action of any other Person and simultaneously with the Member ceasing to be the member of Borrower or the SPE Party (as applicable) automatically be admitted to Borrower or the SPE Party (as applicable) as a member with a zero percent (0%) economic interest ("**Special Member**") and shall continue Borrower or the SPE Party (as applicable) without dissolution and (ii) Special Member may not resign from Borrower or the SPE Party (as applicable) or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to Borrower or the SPE Party (as applicable) as a Special Member in accordance with requirements of Delaware law and (B) after giving effect to such resignation or transfer, there remains at least one Independent Director/Manager of the SPE Party or Borrower (as applicable). The LLC Agreement shall further provide that (i) Special Member shall automatically cease to be a member of Borrower or the SPE Party (as applicable) upon the admission to Borrower or the SPE Party (as applicable) of the first substitute member, (ii) Special Member shall be a member of Borrower or the SPE Party (as applicable) that has no interest in the profits, losses and capital of Borrower or the SPE Party (as applicable) and has no right to receive any distributions of the assets of Borrower or the SPE Party (as applicable), (iii) pursuant to Section 18-301 of the Delaware Limited Liability Company Act (the "**Act**"), Special Member shall not be required to make any capital contributions to Borrower or the SPE Party (as applicable) and shall not receive a limited liability company interest in Borrower or the SPE Party (as applicable), (iv) Special Member, in its capacity as Special Member, may not bind Borrower or the SPE Party (as applicable) and (v) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, Borrower or the SPE Party (as applicable) including, without limitation, the merger, consolidation or conversion of Borrower or the SPE Party (as applicable); provided, however, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director/Manager, to vote on such matters required by the Loan Documents or the LLC Agreement. In order to implement the admission to Borrower or the SPE Party (as applicable) of Special Member, Special Member shall execute a counterpart to the LLC Agreement. Prior to its admission to Borrower or the SPE Party (as applicable) as Special Member, Special Member shall not be a member of Borrower or the SPE Party (as applicable), but Special Member may serve as an Independent Director/Manager of Borrower or the SPE Party (as applicable).

(r) Upon the occurrence of any event that causes the Member to cease to be a member of Borrower or the SPE Party (as applicable) to the fullest extent permitted by law, the

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personal representative of Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of Member in Borrower or the SPE Party (as applicable) agree in writing (i) to continue Borrower or the SPE Party (as applicable) and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower or the SPE Party (as applicable) effective as of the occurrence of the event that terminated the continued membership of Member in Borrower or the SPE Party (as applicable). Any action initiated by or brought against Member or Special Member under the United States Bankruptcy Code or similar state insolvency laws shall not cause Member or Special Member to cease to be a member of Borrower or the SPE Party (as applicable) and upon the occurrence of such an event, the business of Borrower or the SPE Party (as applicable) shall continue without dissolution. The LLC Agreement shall provide that each of Member and Special Member waives any right it might have to agree in writing to dissolve Borrower or the SPE Party (as applicable) upon the occurrence of any action initiated by or brought against Member or Special Member under the United States Bankruptcy Code or similar state insolvency laws, or the occurrence of an event that causes Member or Special Member to cease to be a member of Borrower or the SPE Party (as applicable).

"**Acceptable Delaware LLC**" shall mean a limited liability company formed under Delaware law which (i) has at least one springing member, which, upon the dissolution of all of the members or the withdrawal or the disassociation of all of the members from such limited liability company, shall immediately become the sole member of such limited liability company, and (ii) otherwise meets the Rating Agency criteria then applicable to such entities.

Section 6.15 Full and Accurate Disclosure. No statement of fact made by or on behalf of Borrower or any Borrower Party in this Agreement or in any of the other Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no fact presently known to Borrower which has not been disclosed to Lender which adversely affects, nor as far as Borrower can foresee, might adversely affect, the Project or the business, operations or condition (financial or otherwise) of Borrower or any Borrower Party. All information supplied by Borrower regarding the Project is accurate and complete in all materials respects. All evidence of Borrower's and each Borrower Party's identity provided to Lender is accurate.

Section 6.16 Anti-Terrorism and Anti-Money Laundering Laws.

(a) Borrower and each partner, member or stockholder in Borrower, and all beneficial owners of Borrower and any such partner, member or stockholder, are in compliance with the requirements of the Anti-Money Laundering Laws (as defined below). Borrower agrees to make its policies, procedures and practices regarding compliance with the Anti-Money Laundering Laws of any Persons who, pursuant to transfers permitted by the Mortgage, become stockholders, members, partners or other investors of Borrower available to Lender for its review and inspection during normal business hours and upon reasonable prior notice.

(b) Neither Borrower, any partner, member or stockholder in Borrower nor the beneficial owner of Borrower or any such partner, member or stockholder:

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(i) is listed on the Lists (as defined below);

(ii) is a Person who has been determined by competent authority to be subject to the prohibitions contained in the Anti-Money Laundering Laws;

(iii) is owned or controlled by, nor acts for or on behalf of, any Person on the Lists or any other Person who has been determined by competent authority to be subject to the prohibitions contained in the Anti-Money Laundering Laws;

(iv) shall transfer or permit the transfer of any interest in Borrower or any Borrower Party to any Person who is or whose beneficial owners are listed on the Lists; or

(v) shall knowingly lease space in the Project to any Person who is listed on the Lists or who is engaged in illegal activities.

(c) If Borrower obtains knowledge that Borrower or any of its partners, members or stockholders or their beneficial owners become listed on the Lists or are indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender.

(d) If Borrower obtains knowledge that any tenant in the Project has become listed on the Lists or is convicted, pleads nolo contendere, indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender.

(e) If a tenant at the Project is listed on the Lists or is convicted or pleads nolo contendere to charges related to activity prohibited in the Anti-Money Laundering Laws, then proceeds from the rents of such tenant shall not be used to pay Debt Service and Borrower shall provide Lender such representations and verifications as Lender shall reasonably request that such rents are not being so used.

(f) If a tenant at the Project is arrested on such charges, and such charge is not dismissed within thirty (30) days thereafter, Lender may at its option notify Borrower to exclude such rents from the Debt Service payments.

(g) If Borrower or any Borrower Party is listed on the Lists, no earn-out disbursements, escrow disbursements, or other disbursements under the Loan Documents shall be made and all of such funds shall be paid in accordance with the direction of a court of competent jurisdiction.

As used herein, the following terms have the meanings indicated:

"**Anti-Money Laundering Laws**" means those laws, regulations and sanctions, state and federal, criminal and civil, that (a) limit the use of and/or seek the forfeiture of proceeds from

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illegal transactions; (b) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; (c) require identification and documentation of the parties with whom a financial institution conducts business; or (d) are designed to disrupt the flow of funds to terrorist organizations. Such laws, regulations and sanctions shall be deemed to include the USA PATRIOT ACT of 2001, Publ. L. No. 107-56, the Bank Secrecy Act, 31 U.S.C. Section 5311, *et seq.*, the Trading with the Enemy Act, 50 U.S.C. App. Section 1, *et seq.*, the International Emergency Economic Powers Act, 50 U.S.C. Section 1701, *et seq.*, and the sanction regulations promulgated pursuant thereto by OFAC (as defined below), as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957, and executive orders promulgated pursuant to any of the foregoing.

"**Lists**" means the Specially Designated National and Blocked Persons List maintained by OFAC pursuant to the Anti-Money Laundering Laws and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any of the Anti-Money Laundering Laws.

"**OFAC**" means the Office of Foreign Assets Control, Department of the Treasury.

Section 6.17 Property Specific Representations. The management agreement for the Project is in full force and effect and there is no default or violation by any party thereunder.

ARTICLE 7
FINANCIAL REPORTING

Section 7.1 Financial Statements.

(a) **Monthly Reports**. Until the Loan is sold in a Secondary Market Transaction, Borrower shall furnish to Lender within fifteen (15) days after the end of each calendar month, a current rent roll and a detailed operating statement (showing monthly activity and year-to-date) stating operating revenues, operating expenses, operating income and net cash flow for the calendar month just ended.

(b) **Quarterly Reports**. Within forty-five (45) days after the end of each calendar quarter, Borrower shall furnish to Lender a current rent roll and a detailed operating statement (showing quarterly activity and year-to-date) stating operating revenues, operating expenses, operating income and net cash flow for the calendar quarter just ended.

(c) **Annual Reports**. Within ninety (90) days after the end of each fiscal year of Borrower's operation of the Project, Borrower shall furnish to Lender a current (as of the end of such fiscal year) balance sheet, a detailed operating statement stating operating revenues, operating expenses, operating income and net cash flow for each of Borrower and the Project and, if required by Lender, audited financial statements prepared by an independent public accountant reasonably satisfactory to Lender. Borrower's annual financial statements shall include (i) a list of the tenants, if any, occupying more than twenty percent (20%) of the total floor area of the Project, (ii) a breakdown showing the year in which each lease then in effect

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expires, and (iii) a breakdown of the percentage of total floor area of the Project and the percentage of base rent with respect to which leases shall expire in each year, each such percentage to be expressed on both a per year and a cumulative basis.

(d) **Certification; Supporting Documentation**. Each such financial statement shall be in scope and detail reasonably satisfactory to Lender and certified by the chief financial representative of Borrower.

Section 7.2 Accounting Principles. All financial statements shall be prepared in accordance with generally accepted accounting principles in the United States of America in effect on the date so indicated and consistently applied (or such other accounting basis reasonably acceptable for Lender).

Section 7.3 Other Information; Access. Borrower shall deliver to Lender such additional information regarding Borrower, its subsidiaries, its business, any Borrower Party, and the Project within 30 days after Lender's request therefor. In the event that Borrower fails to forward the financial statements required in this Article 7 within thirty (30) days after written request, Lender shall have the right to audit such records, books and papers at Borrower's expense.

Section 7.4 Annual Budget. At least thirty (30) days prior to the commencement of each fiscal year, Borrower will provide to Lender its proposed annual operating and capital improvements budget for such fiscal year for review and approval by Lender.

ARTICLE 8
COVENANTS

Borrower covenants and agrees with Lender as follows:

Section 8.1 Due On Sale and Encumbrance; Transfers of Interests. Without the prior written consent of Lender, neither Borrower nor any other Person having an ownership or beneficial interest in Borrower shall sell, transfer, convey, mortgage, pledge, or assign any interest in the Project or any part thereof or further encumber, alienate, grant a Lien or grant any other interest in the Project or any part thereof, whether voluntarily or involuntarily, in violation of the covenants and conditions set forth in the Section 8.3 hereof and in Mortgage.

Section 8.2 Taxes; Utility Charges. Except to the extent sums sufficient to pay all Taxes (defined herein) have been previously deposited with Lender as part of the Tax and Insurance Escrow Fund and subject to Borrower's right to contest in accordance with Section 11.8 hereof, Borrower shall pay before any fine, penalty, interest or cost may be added thereto, and shall not enter into any agreement to defer, any real estate taxes and assessments, franchise taxes and charges, and other governmental charges (the "**Taxes**") that may become a Lien upon the Project or become payable during the term of the Loan. Borrower's compliance with Section 3.4 of this Agreement relating to impounds for Taxes shall, with respect to payment of such Taxes, be deemed compliance with this Section 8.2. Borrower shall not suffer or permit the joint assessment of the Project with any other real property constituting a separate tax lot or with

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any other real or personal property. Borrower shall promptly pay for all utility services provided to the Project.

Section 8.3 Control; Management.

(a) There shall be no change in the day-to-day control and management of Borrower or Borrower's general partner or managing member without the prior written consent of Lender. Borrower, including any tenant-in-common transferees permitted pursuant to the terms of the Mortgage (the "**TIC Transferee**"), shall be governed by a tenancy-in-common or co-owners agreement (the "**TIC Agreement**") containing such terms as approved by Lender in its reasonable discretion, including without limitation, provisions which (i) appoints one Co-Borrower as manager (the "**TIC Manager**") for all and who shall be authorized as the sole contact and notice party for Lender with authority to deal with Lender and does not require Lender to give notice to any other Co-Borrower, and (ii) provides that the Project may not be partitioned and that each of the other co-tenants will have the right to purchase any bankrupt tenant's interest at fair market value based on independent appraisals, (iii) during the term of the Loan, waives any lien rights or other remedies by such Co-Borrower against the Project and other co-tenants, and (iv) provides that all rights and privileges of each Co-Borrower shall be subject and subordinate to the Mortgage, and Lender shall be a third-party beneficiary to the TIC Agreement. The individual equity owner of each Co-Borrower, including any TIC Transferee, shall execute a Special Joinder in the form attached hereto.

(b) Borrower shall not terminate, replace or appoint the TIC Manager or any property manager or terminate or amend the property management agreement for the Project or the TIC Agreement without Lender's prior written approval, which approval shall not be unreasonably withheld. Any change in ownership or control of the property manager shall be cause for Lender to re-approve such property manager and management agreement. Each property manager shall hold and maintain all necessary licenses, certifications and permits required by law. Borrower shall fully perform all of its covenants, agreements and obligations under the management agreement. The management fee payable under the management agreement shall not exceed three percent (3%) of rental collections.

(c) Subject to Section 3.9 of the Mortgage and this Section 8.3, no transfers (directly or indirectly) of any interest in the tenancy-in-common (or any Borrower having an interest therein) shall be permitted without Lender's prior written consent. Each TIC Transferee shall assume joint and several liability for the Loan (subject to the limitation on liability herein) and, along with the individual equity owner of each such TIC Transferee approved by Lender, shall execute and deliver such assumption documents, organizational documents, legal opinions, title endorsements, and other documents as Lender may require in connection therewith.

Section 8.4 Operation; Maintenance; Inspection. Borrower shall observe and comply with all legal requirements applicable to the ownership, use and operation of the Project. Borrower shall maintain the Project in good condition and promptly repair any damage or casualty. Borrower shall permit Lender and its agents, representatives and employees, upon reasonable prior notice to Borrower, to inspect the Project and conduct such environmental and

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engineering studies as Lender may require, provided such inspections and studies do not materially interfere with the use and operation of the Project.

Section 8.5 **Taxes on Security**. Borrower shall pay all taxes, charges, filing, registration and recording fees, excises and levies payable with respect to the Note or the Liens created or secured by the Loan Documents, other than income, franchise and doing business taxes imposed on Lender. If there shall be enacted any law (a) deducting the Loan from the value of the Project for the purpose of taxation, (b) affecting any Lien on the Project, or (c) changing existing laws of taxation of mortgages, deeds of trust, security deeds, or debts secured by real property, or changing the manner of collecting any such taxes, Borrower shall promptly pay to Lender, on demand, all taxes, costs and charges for which Lender is or may be liable as a result thereof; however, if such payment would be prohibited by law or would render the Loan usurious, then instead of collecting such payment, Lender may declare all amounts owing under the Loan Documents to be immediately due and payable.

Section 8.6 **Legal Existence; Name, Etc.** Borrower and each SPE Party shall preserve and keep in full force and effect its entity status, franchises, rights and privileges under the laws of the state of its formation, and all qualifications, licenses and permits applicable to the ownership, use and operation of the Project. Neither Borrower nor any general partner or managing member of Borrower shall wind up, liquidate, dissolve, reorganize, merge, or consolidate with or into, or convey, sell, assign, transfer, lease, or otherwise dispose of all or substantially all of its assets, or acquire all or substantially all of the assets of the business of any Person, or permit any subsidiary or Affiliate of Borrower to do so. Borrower shall not change its name, identity, state of formation, or organizational structure, or the location of its chief executive office or principal place of business unless Borrower (a) shall have obtained the prior written consent of Lender to such change, and (b) shall have taken all actions necessary or requested by Lender to file or amend any financing statement or continuation statement to assure perfection and continuation of perfection of security interests under the Loan Documents. The name of Borrower, type of entity, organization number, and state of formation set forth in this Agreement accurately reflect such information as shown on the public record of Borrower's jurisdiction of organization.

Section 8.7 **Further Assurances**. Borrower shall promptly (a) cure any defects in the execution and delivery of the Loan Documents and the Environmental Indemnity Agreement, and (b) execute and deliver, or cause to be executed and delivered, all such other documents, agreements and instruments as Lender may reasonably request to further evidence and more fully describe the collateral for the Loan, to correct any omissions in the Loan Documents, to perfect, protect or preserve any liens created under any of the Loan Documents and the Environmental Indemnity Agreement, or to make any recordings, file any notices, or obtain any consents, as may be necessary or appropriate in connection therewith. Borrower grants Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender under the Loan Documents and the Environmental Indemnity Agreement, at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 8.7.

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Section 8.8 **Estoppel Certificates**. Borrower, within ten (10) days after request, shall furnish to Lender a written statement, duly acknowledged, setting forth the amount due on the Loan, the terms of payment of the Loan, the date to which interest has been paid, whether any offsets or defenses exist against the Loan and, if any are alleged to exist, the nature thereof in detail, and such other matters as Lender reasonably may request.

Section 8.9 **Notice of Certain Events**. Borrower shall promptly notify Lender of (a) any Potential Default or Event of Default, together with a detailed statement of the steps being taken to cure such Potential Default or Event of Default; (b) any notice of default received by Borrower under other obligations relating to the Project or otherwise material to Borrower's business; and (c) any threatened or pending legal, judicial or regulatory proceedings, including any dispute between Borrower and any governmental authority, affecting Borrower or the Project.

Section 8.10 **Indemnification**. Borrower shall protect, defend, indemnify and save harmless Lender its shareholders, directors, officers, employees and agents from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable attorneys' fees and expenses), imposed upon or incurred by or asserted against Lender by reason of (a) ownership of the Mortgage, the Project or any interest therein or receipt of any rents; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Project or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) any use, nonuse or condition in, on or about the Project or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (d) performance of any labor or services or the furnishing of any materials or other property in respect of the Project or any part thereof; and (e) the failure of any Person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Agreement, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Agreement is made. Any amounts payable to Lender by reason of the application of this section shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid.

Section 8.11 **Cooperation**.

(a) Borrower acknowledges that Lender and its successors and assigns shall have the right (i) to sell or otherwise transfer the Loan or any portion thereof and any and all servicing rights thereto as a whole loan, (ii) to sell participation interests in the Loan (or any portion thereof), or (iii) to securitize the Loan or any portion thereof in a single asset securitization or a pooled loan securitization (the transactions referred to in clauses (i), (ii) and (iii) shall hereinafter be referred to collectively as "**Secondary Market Transactions**," the transactions referred to in clause (iii) shall hereinafter be referred to as a "**Securitization**," and any certificates, notes or other securities issued in connection with a Securitization are hereinafter referred to as "**Securities**"). Borrower shall cooperate with Lender in effecting any such Secondary Market Transaction and shall cooperate to implement all requirements imposed by any Rating Agency involved in any Secondary Market Transaction. Borrower shall provide such

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information, legal opinions and documents relating to Borrower, the Project and any tenants of the Project as Lender may reasonably request in connection with such Secondary Market Transaction at no third-party professional expense unless otherwise required by the Loan Documents. In addition, Borrower shall make available to Lender all information concerning its business and operations that Lender may reasonably request. Lender shall be permitted to share all such information with the investment banking firms, Rating Agencies, accounting firms, law firms and other third-party advisory firms involved with the Loan and the Loan Documents or the applicable Secondary Market Transaction. It is understood that the information provided by Borrower to Lender may ultimately be incorporated into the offering documents for the Secondary Market Transaction and thus various investors may also see some or all of the information. Lender and all of the aforesaid third-party advisors and professional firms shall be entitled to rely on the information supplied by, or on behalf of, Borrower and Borrower indemnifies Lender as to any losses, claims, damages or liabilities that arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such information or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated in such information or necessary in order to make the statements in such information, or in light of the circumstances under which they were made, not misleading. Lender shall have the right (but shall be under no obligation) to make available to any party for the purpose of granting participations in or selling, transferring, assigning or conveying all or any part of the Loan (including any governmental agency or authority and any prospective bidder at any foreclosure sale of the Project) any and all information which Lender may have with respect to the Project, Borrower and any Borrower Party, whether provided by Borrower, any Borrower Party or any third party, or obtained as a result of any environmental assessments. Borrower and each Borrower Party agrees that Lender shall have no liability whatsoever as a result of delivering any such information to any third party, and Borrower and the other Borrower Parties, on behalf of themselves and their successors and assigns, hereby release and discharge Lender from any and all liabilities, claims, damages, or causes of action arising out of, connected with or incidental to the delivery of any such information to any third party.

(b) Lender shall have the right (at Lender's sole cost and expense), at any time (whether prior to or after any Secondary Market Transaction of all or any portion of the Loan), to modify the Loan in order to create one or more senior and subordinate notes (i.e., an A/B, A/B/C or other similar structure) and/or one or more additional components of the Note, reduce the number of components of the Note, revise the interest rate for each component, reallocate the principal balances of the Note and/or the components, increase or decrease the monthly debt service payments for each component or eliminate the component structure and/or the multiple note structure of the Loan (including the elimination of the related allocations of principal and interest payments), provided that (i) the outstanding principal balance of all components immediately after the effective date of such modification equals the outstanding principal balance immediately prior to such modification and the weighted average of the interest rates for all components immediately after the effective date of such modification equals the interest rate of the original Note immediately prior to such modification, (ii) the aggregate principal and interest payments under all components immediately after the effective date of such modification equals the principal and interest payments under the Note immediately prior to such modification

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and (iii) in no event shall there be more than one servicer servicing the Loan as so modified. At Lender's election, each Note comprising the Loan may be subject to one or more Securitizations. Lender shall have the right to modify the Note and any components in accordance with this Section 8.11(b) and, provided that such modification shall comply with the terms of this Section 8.11(b), it shall become immediately effective. If requested by Lender, Borrower shall promptly execute an amendment to the Loan Documents to evidence any such modification; provided, however, except as set forth above, Borrower shall not be required to modify or amend any Loan Document if such modification or amendment would (A) change the interest rate, the stated maturity or the amortization of principal as set forth herein or in the Note, or (B) modify or amend any other material term of the Loan adverse to Borrower.

Section 8.12 **Payment For Labor and Materials**. Subject to Borrower's right to contest in accordance with Section 11.8 hereof, Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Project and never permit to exist beyond the due date thereof in respect of the Project or any part thereof any Lien, even though inferior to the Liens hereof, and in any event never permit to be created or exist in respect of the Project or any part thereof any other or additional Lien other than the Liens hereof, except for the Permitted Encumbrances (defined in the Mortgage).

Section 8.13 **Partial Release**. Following the Defeasance Lockout Period, Lender shall permit a partial defeasance of the Loan pursuant to the Partial Defeasance Option and will release from the lien of the Mortgage either Columbia Park Retail or Brook Park (individually, a "**Released Property**") upon the sale of the Released Property, provided that the following conditions are met:

(a) Borrower shall pay to Lender the Partial Defeasance Deposit (as defined in ***Schedule VI***) and shall comply with all terms of ***Schedule VI***;

(b) Borrower shall reimburse Lender for any reasonable costs and expenses it incurs arising from the transfer of the Released Property and any release of the Released Property from the lien of the Mortgage (including, without limitation, reasonable attorneys fees and expenses);

(c) At the time Borrower requests such release and at the time such release is granted there is no Event of Default continuing;

(d) Each applicable municipal authority exercising jurisdiction over the Release Parcel has approved a subdivision ordinance or other applicable action under the local law dividing the Release Parcel from the remainder of the Project and assigning separate tax identification numbers to each;

(e) No part of the remaining Project shall be part of a tax lot affecting any portion of the Release Parcel;

(f) All requirements under all laws, statutes, rules and regulations (including, without limitation, all zoning and subdivision laws, setback requirements, sideline requirements, parking ratio requirements, use requirements, building and fire code requirements, environmental

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requirements and wetland requirements) applicable to the Project necessary to accomplish the subdivision shall have been fulfilled, and evidence thereof satisfactory to a prudent institutional mortgage lender has been delivered to the Lender;

(g) Lender shall receive such documents as are customary and standard in such transactions (which may include a legal non-consolidation opinion acceptable to a prudent institutional mortgage lender) that the single purpose nature and bankruptcy remoteness of Borrower and its shareholders or partners following such transfer are in accordance with the standards of (i) two Rating Agencies selected by Lender or, (ii) if a Secondary Market Transaction has occurred, each of the Rating Agencies rating the securities issued in the Secondary Market Transaction;

(h) Borrower shall execute such documents and instruments and obtain such opinions of counsel as are customary and standard in such transactions, including, but not limited to, an opinion that the release of the Released Property will not be a "significant modification" of the Loan within the meaning of Section 1001 of the Internal Revenue Code and Section 1.860G-2(b)(3) of the Regulations of the United States Department of Treasury, and that such release will not result in a tax being imposed on the trust which becomes the holder of the Note and the Mortgage following a Secondary Market Transaction or cause any REMIC involved in such Secondary Market Transaction to fail to qualify as a REMIC under the applicable provisions of the Internal Revenue Code and the Regulations of the United States Department of Treasury promulgated in connection therewith; and

(i) The sale, transfer or assignment of the Released Property must be in connection with an arms-length sale of the Released Property to a Person that is not an Affiliate of Borrower or any Borrower Party. Partial releases shall not be permitted in connection with any refinance or recapitalization.

Section 8.14 Waiver of Partition. No Co-Borrower shall exercise any right of partition with respect to the Project.

Section 8.15 Property Specific Covenants. Borrower shall keep the sewer facility located at the Project in compliance with all applicable governmental authorities and Environmental Laws, maintain all applicable permits, and satisfy all matters raised by application inspections. If such sewer facility is required to connect to the applicable municipal sewer, Borrower shall pay for all costs associated therewith.

ARTICLE 9
EVENTS OF DEFAULT

Each of the following shall constitute an Event of Default under the Loan:

Section 9.1 Payments. Borrower's failure to pay any regularly scheduled installment of principal, interest or other amount due under the Loan Documents within five (5) days of (and including) the date when due, or Borrower's failure to pay the Loan at the Maturity Date, whether by acceleration or otherwise.

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Section 9.2 **Insurance**. Borrower's failure to maintain insurance as required under Section 3.1 of this Agreement.

Section 9.3 **Sale, Encumbrance, Etc**. The sale, transfer, conveyance, pledge, mortgage or assignment of any part or all of the Project, or any interest therein, or of any interest in Borrower, in violation of the Mortgage.

Section 9.4 **Covenants**. Borrower's failure to perform or observe any of the agreements and covenants contained in this Agreement or in any of the other Loan Documents (other than payments under Section 9.1, insurance requirements under Section 9.2, transfers and encumbrances under Section 9.3, and the Events of Default described in Sections 9.7 and 9.8 below), and the continuance of such failure for ten (10) days after notice by Lender to Borrower; however, subject to any shorter period for curing any failure by Borrower as specified in any of the other Loan Documents, Borrower shall have an additional sixty (60) days to cure such failure if (a) such failure does not involve the failure to make payments on a monetary obligation; (b) such failure cannot reasonably be cured within ten (10) days; (c) Borrower is diligently undertaking to cure such default; and (d) Borrower has provided Lender with security reasonably satisfactory to Lender against any interruption of payment or impairment of collateral as a result of such continuing failure.

Section 9.5 **Representations and Warranties**. Any representation or warranty made in any Loan Document proves to be untrue in any material respect when made or deemed made.

Section 9.6 **Other Encumbrances**. Any default under any document or instrument, other than the Loan Documents, evidencing or creating a Lien on the Project or any part thereof, not cured within any applicable grace or cure period therein.

Section 9.7 **Involuntary Bankruptcy or Other Proceeding**. Commencement of an involuntary case or other proceeding against Borrower, any Borrower Party or any other Person having an ownership or security interest in the Project (each, a "**Bankruptcy Party**") which seeks liquidation, reorganization or other relief with respect to it or its debts or other liabilities under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of 60 days; or an order for relief against a Bankruptcy Party shall be entered in any such case under the Federal Bankruptcy Code.

Section 9.8 **Voluntary Petitions, etc**. Commencement by a Bankruptcy Party of a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its Debts or other liabilities under any bankruptcy, insolvency or other similar law or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official for it or any of its property, or consent by a Bankruptcy Party to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or the making by a Bankruptcy Party of a general assignment for the benefit of creditors, or the failure by a Bankruptcy Party, or the admission by a Bankruptcy Party

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in writing of its inability, to pay its debts generally as they become due, or any action by a Bankruptcy Party to authorize or effect any of the foregoing.

Section 9.9 **Anti-Terrorism**. If Borrower or any Borrower Party is listed on the Lists or is convicted or pleads nolo contendere to charges related to activity prohibited in the Anti-Money Laundering Laws, or if Borrower or any Borrower Party is arrested on charges related to activity prohibited in the Anti-Money Laundering Laws and such charge is not dismissed within thirty (30) days thereafter.

ARTICLE 10
REMEDIES

Section 10.1 **Remedies - Insolvency Events**. Upon the occurrence of any Event of Default described in Section 9.7 or 9.8, all amounts due under the Loan Documents immediately shall become due and payable, all without written notice and without presentment, demand, protest, notice of protest or dishonor, notice of intent to accelerate the maturity thereof, notice of acceleration of the maturity thereof, or any other notice of default of any kind, all of which are hereby expressly waived by Borrower; however, if the Bankruptcy Party under Section 9.7 or 9.8 is other than Borrower, then all amounts due under the Loan Documents shall become immediately due and payable at Lender's election, in Lender's sole discretion.

Section 10.2 **Remedies - Other Events**. Except as set forth in Section 10.1 above, while any Event of Default exists, Lender may (a) declare the entire Loan to be immediately due and payable without presentment, demand, protest, notice of protest or dishonor, notice of intent to accelerate the maturity thereof, notice of acceleration of the maturity thereof, or other notice of default of any kind, all of which are hereby expressly waived by Borrower, and (b) exercise all rights and remedies therefor under the Loan Documents and at law or in equity.

Section 10.3 **Lender's Right to Perform the Obligations**. If Borrower shall fail, refuse or neglect to make any payment or perform any act required by the Loan Documents, then while any Event of Default exists, and without notice to or demand upon Borrower and without waiving or releasing any other right, remedy or recourse Lender may have because of such Event of Default, Lender may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Borrower, and shall have the right to enter upon the Project for such purpose and to take all such action thereon and with respect to the Project as it may deem necessary or appropriate. If Lender shall elect to pay any sum due with reference to the Project, Lender may do so in reliance on any bill, statement or assessment procured from the appropriate governmental authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by the Loan Documents, Lender shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same. Borrower shall indemnify Lender for all losses, expenses, damages, claims and causes of action, including reasonable attorneys' fees, incurred or accruing by reason of any acts performed by Lender pursuant to the provisions of this Section 10.3. All sums paid by Lender pursuant to this Section 10.3, and all other sums expended by Lender to which it shall be entitled to be indemnified, together with interest thereon

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at the Default Rate from the date of such payment or expenditure until paid, shall constitute additions to the Loan, shall be secured by the Loan Documents and shall be paid by Borrower to Lender upon demand.

ARTICLE 11
MISCELLANEOUS

Section 11.1 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and either shall be mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight air courier service, or personally delivered to a representative of the receiving party, or sent by telecopy (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 11.1). All such communications shall be mailed, sent or delivered, addressed to the party for whom it is intended at its address set forth below.

If to Borrower: Columbia Park East MHP LLC
Columbia Far West, LLC
70 Old Stonefield Way
Pittsford, New York 14534
Attention: Ken Burnham
Telecopy: (585) 586-8582

If to Lender: General Electric Capital Corporation
c/o GEMSA Loan Services, L.P.
1500 City West Blvd., Suite 200
Houston, Texas 77042-2300
Attention: Portfolio Manager/Access Program
Telecopy: (713) 458-7500

with a copy to: General Electric Capital Corporation
16479 Dallas Parkway, Suite 500
Two Bent Tree Tower
Addison, Texas 75001-2512
Attention: David R. Martindale
Telecopy: (972) 728-7650

Any communication so addressed and mailed shall be deemed to be given on the earliest of (a) when actually delivered, (b) on the first Business Day after deposit with an overnight air courier service, or (c) on the third Business Day after deposit in the United States mail, postage prepaid, in each case to the address of the intended addressee, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by Lender or Borrower, as the case may be. If given by telecopy, a notice shall be deemed given and received when the telecopy is transmitted to the party's telecopy number specified above and confirmation of complete receipt is received by the transmitting party during normal business

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hours or on the next Business Day if not confirmed during normal business hours. Either party may designate a change of address by written notice to the other by giving at least ten (10) days prior written notice of such change of address.

Section 11.2 Amendments and Waivers. No amendment or waiver of any provision of the Environmental Indemnity Agreement and the Loan Documents shall be effective unless in writing and signed by the party against whom enforcement is sought.

Section 11.3 Limitation on Interest. It is the intention of the parties hereto to conform strictly to applicable usury laws. Accordingly, all agreements between Borrower and Lender with respect to the Loan are hereby expressly limited so that in no event, whether by reason of acceleration of maturity or otherwise, shall the amount paid or agreed to be paid to Lender or charged by Lender for the use, forbearance or detention of the money to be lent hereunder or otherwise, exceed the maximum amount allowed by law. If the Loan would be usurious under applicable law (including the laws of the State and the laws of the United States of America), then, notwithstanding anything to the contrary in the Loan Documents: (a) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, taken, reserved, charged or received under the Loan Documents shall under no circumstances exceed the maximum amount of interest allowed by applicable law, and any excess shall be credited on the Note by the holder thereof; and (b) if maturity is accelerated by reason of an election by Lender, or in the event of any prepayment, then any consideration which constitutes interest may never include more than the maximum amount allowed by applicable law. In such case, excess interest, if any, provided for in the Loan Documents or otherwise, to the extent permitted by applicable law, shall be amortized, prorated, allocated and spread from the date of advance until payment in full so that the actual rate of interest is uniform through the term hereof. If such amortization, proration, allocation and spreading is not permitted under applicable law, then such excess interest shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited on the Note. The terms and provisions of this Section 11.3 shall control and supersede every other provision of the Loan Documents. The Loan Documents are contracts made under and shall be construed in accordance with and governed by the laws of the State, except that if at any time the laws of the United States of America permit Lender to contract for, take, reserve, charge or receive a higher rate of interest than is allowed by the laws of the State (whether such federal laws directly so provide or refer to the law of any state), then such federal laws shall to such extent govern as to the rate of interest which Lender may contract for, take, reserve, charge or receive under the Loan Documents.

Section 11.4 Invalid Provisions. If any provision of any Loan Document or the Environmental Indemnity Agreement is held to be illegal, invalid or unenforceable, such provision shall be fully severable; the Environmental Indemnity Agreement and the Loan Documents shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part thereof; the remaining provisions thereof shall remain in full effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance therefrom; and in lieu of such illegal, invalid or unenforceable provision there shall be added automatically as a part of such Environmental Indemnity Agreement and such Loan Document a

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provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible to be legal, valid and enforceable.

Section 11.5 Reimbursement of Expenses. Borrower shall pay all reasonable expenses incurred by Lender in connection with the Loan, including reasonable fees and expenses of Lender's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of Loan Documents. Borrower shall pay all expenses of Lender in connection with the administration of the Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, premiums for title insurance and endorsements thereto, and Rating Agency fees and expenses in connection with confirmation letters, if required. Borrower shall, upon request, promptly reimburse Lender for all amounts expended, advanced or incurred by Lender to collect the Note, or to enforce the rights of Lender under this Agreement, the Environmental Indemnity Agreement, or any Loan Document, or to defend or assert the rights and claims of Lender under the Environmental Indemnity Agreement or the Loan Documents or with respect to the Project (by litigation or other proceedings), which amounts will include all court costs, reasonable attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be incurred by Lender in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the date of disbursement until the date of reimbursement to Lender, all of which shall constitute part of the Loan and shall be secured by the Loan Documents.

Section 11.6 Approvals; Third Parties; Conditions. All approval rights retained or exercised by Lender with respect to leases, contracts, plans, studies and other matters are solely to facilitate Lender's credit underwriting, and shall not be deemed or construed as a determination that Lender has passed on the adequacy thereof for any other purpose and may not be relied upon by Borrower or any other Person. This Agreement is for the sole and exclusive use of Lender and Borrower and may not be enforced, nor relied upon, by any Person other than Lender and Borrower. All conditions of the obligations of Lender hereunder, including the obligation to make advances, are imposed solely and exclusively for the benefit of Lender, its successors and assigns, and no other Person shall have standing to require satisfaction of such conditions or be entitled to assume that Lender will refuse to make advances in the absence of strict compliance with any or all of such conditions, and no other Person shall, under any circumstances, be deemed to be a beneficiary of such conditions, any and all of which may be freely waived in whole or in part by Lender at any time in Lender's sole discretion.

Section 11.7 Lender Not in Control; No Partnership. None of the covenants or other provisions contained in this Agreement shall, or shall be deemed to, give Lender the right or power to exercise control over the affairs or management of Borrower, the power of Lender being limited to the rights to exercise the remedies referred to in the Environmental Indemnity Agreement or the Loan Documents. The relationship between Borrower and Lender is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Environmental Indemnity Agreement or the Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between Lender and Borrower or to create an equity in the Project in Lender. Lender neither undertakes nor assumes any responsibility or duty to Borrower or to any other person

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with respect to the Project or the Loan, except as expressly provided in the Environmental Indemnity Agreement and the Loan Documents; and notwithstanding any other provision of the Environmental Indemnity Agreement or the Loan Documents: (a) Lender is not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of Borrower or its stockholders, members, or partners and Lender does not intend to ever assume such status; (b) Lender shall in no event be liable for any Debts, expenses or losses incurred or sustained by Borrower; and (c) Lender shall not be deemed responsible for or a participant in any acts, omissions or decisions of Borrower or its stockholders, members, or partners. Lender and Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between Lender and Borrower, or to create an equity in the Project in Lender, or any sharing of liabilities, losses, costs or expenses.

Section 11.8 **Contest of Certain Claims**. Borrower may contest the validity of Taxes or any mechanic's or materialman's lien asserted against the Project so long as (a) Borrower notifies Lender that it intends to contest such Taxes or liens, as applicable, (b) Borrower provides Lender with an indemnity, bond or other security reasonably satisfactory to Lender assuring the discharge of Borrower's obligations for such Taxes or liens, as applicable, including interest and penalties, (c) Borrower is diligently contesting the same by appropriate legal proceedings in good faith and at its own expense and concludes such contest prior to the tenth (10th) day preceding the earlier to occur of the Maturity Date or the date on which the Project is scheduled to be sold for non-payment, (d) Borrower promptly upon final determination thereof pays the amount of any such Taxes or liens, as applicable, together with all costs, interest and penalties which may be payable in connection therewith, and (e) notwithstanding the foregoing, Borrower shall immediately upon request of Lender pay any such Taxes or liens, as applicable, notwithstanding such contest if, in the opinion of Lender, the Project or any part thereof or interest therein may be in danger of being sold, forfeited, foreclosed, terminated, canceled or lost. Lender may pay over any cash deposit or part thereof to the claimant entitled thereto at any time when, in the reasonable judgment of Lender, the entitlement of such claimant is established.

Section 11.9 **Time of the Essence**. Time is of the essence with respect to this Agreement.

Section 11.10 **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of Lender and Borrower and their respective successors and assigns, provided that neither Borrower nor any other Borrower Party shall, without the prior written consent of Lender, assign any rights, duties or obligations hereunder.

Section 11.11 **Renewal, Extension or Rearrangement**. All provisions of the Environmental Indemnity Agreement and the Loan Documents shall apply with equal effect to each and all promissory notes and amendments thereof hereinafter executed which in whole or in part represent a renewal, extension, increase or rearrangement of the Loan.

Section 11.12 **Waivers**. No course of dealing on the part of Lender, its officers, employees, consultants or agents, nor any failure or delay by Lender with respect to exercising

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any right, power or privilege of Lender under the Environmental Indemnity Agreement and any of the Loan Documents, shall operate as a waiver thereof.

Section 11.13 Cumulative Rights; Joint and Several Liability. Rights and remedies of Lender under the Environmental Indemnity Agreement and the Loan Documents shall be cumulative, and the exercise or partial exercise of any such right or remedy shall not preclude the exercise of any other right or remedy. If more than one person or entity has executed this Agreement as "Borrower," the obligations of all such persons or entities hereunder shall be joint and several.

Section 11.14 Singular and Plural. Words used in this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular in this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement shall apply to such words when used in the plural where the context so permits and vice versa.

Section 11.15 Phrases. Except as otherwise expressly provided herein, when used in this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement, the phrase "including" shall mean "including, but not limited to," the phrase "satisfactory to Lender" shall mean "in form and substance satisfactory to Lender in all respects," the phrase "with Lender's consent" or "with Lender's approval" shall mean such consent or approval at Lender's sole discretion, and the phrase "acceptable to Lender" shall mean "acceptable to Lender at Lender's sole discretion."

Section 11.16 Exhibits and Schedules. The exhibits and schedules attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein.

Section 11.17 Titles of Articles, Sections and Subsections. All titles or headings to articles, sections, subsections or other divisions of this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement or the exhibits hereto and thereto are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the other content of such articles, sections, subsections or other divisions, such other content being controlling as to the agreement between the parties hereto.

Section 11.18 Promotional Material. Borrower authorizes Lender to issue press releases, advertisements and other promotional materials in connection with Lender's own promotional and marketing activities, including in connection with a Secondary Market Transaction, and such materials may describe the Loan in general terms or in detail and Lender's participation therein in the Loan. All references to Lender contained in any press release, advertisement or promotional material issued by Borrower shall be approved in writing by Lender in advance of issuance.

Section 11.19 Survival. All of the representations, warranties, covenants, and indemnities hereunder (including environmental matters under Article 4), under the

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indemnification provisions of the other Loan Documents and under the Environmental Indemnity Agreement, shall survive the repayment in full of the Loan and the release of the liens evidencing or securing the Loan, and shall survive the transfer (by sale, foreclosure, conveyance in lieu of foreclosure or otherwise) of any or all right, title and interest in and to the Project to any party, whether or not an Affiliate of Borrower.

Section 11.20 Waiver of Jury Trial. To the maximum extent permitted by law, Borrower and Lender hereby knowingly, voluntarily and intentionally waive the right to a trial by jury in respect of any litigation based hereon, arising out of, under or in connection with this Agreement, any other Loan Document, or the Environmental Indemnity Agreement, or any course of conduct, course of dealing, statement (whether verbal or written) or action of either party or any exercise by any party of their respective rights under the Loan Documents and the Environmental Indemnity Agreement or in any way relating to the Loan or the Project (including, without limitation, any action to rescind or cancel this Agreement, and any claim or defense asserting that this Agreement was fraudulently induced or is otherwise void or voidable). This waiver is a material inducement for Lender to enter this Agreement.

Section 11.21 Waiver of Punitive or Consequential Damages. Neither Lender nor Borrower shall be responsible or liable to the other or to any other Person for any punitive, exemplary or consequential damages which may be alleged as a result of the Loan or the transaction contemplated hereby, including any breach or other default by any party hereto.

Section 11.22 Governing Law. The Loan Documents and the Environmental Indemnity Agreement shall be governed by and construed in accordance with the laws of the State and the applicable laws of the United States of America.

Section 11.23 Entire Agreement. This Agreement, the other Loan Documents and the Environmental Indemnity Agreement embody the entire agreement and understanding between Lender and Borrower and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents and the Environmental Indemnity Agreement may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. If any conflict or inconsistency exists between the Commitment and this Agreement, any of the other Loan Documents, or the Environmental Indemnity Agreement, the terms of this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement shall control.

Section 11.24 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

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ARTICLE 12
LIMITATIONS ON LIABILITY

Section 12.1 Limitation on Liability. Except as provided below, Borrower shall not be personally liable for amounts due under the Loan Documents.

(a) Borrower shall be personally liable to Lender for any deficiency, loss or damage suffered by Lender because of:

(i) Borrower's commission of a criminal act;

(ii) the failure to comply with provisions of the Loan Documents prohibiting the sale, transfer or encumbrance of the Project, any other collateral, or any direct or indirect ownership interest in Borrower;

(iii) the misapplication by Borrower or any Borrower Party of any funds derived from the Project, including security deposits, insurance proceeds and condemnation awards in violation of this Agreement or any of the other Loan Documents;

(iv) the fraud or misrepresentation by Borrower or any Borrower Party made in or in connection with the Loan Documents or the Loan;

(v) Borrower's collection of rents more than one month in advance or entering into or modifying leases, or receipt of monies by Borrower or any Borrower Party in connection with the modification of any leases, in violation of this Agreement or any of the other Loan Documents;

(vi) Borrower's failure to apply proceeds of rents or any other payments in respect of the leases and other income of the Project or any other collateral when received to the costs of maintenance and operation of the Project and to the payment of taxes, lien claims, insurance premiums, Debt Service, the Funds, and other amounts due under the Loan Documents to the extent the Loan Documents require such proceeds to be then so applied;

(vii) Borrower's interference with Lender's exercise of rights under the Assignment of Leases and Rents;

(viii) Borrower's failure to maintain insurance as required by this Agreement;

(ix) waste to the Project caused by the acts or omissions of Borrower, its agents, employees, or contractors;

(x) Borrower's obligations with respect to environmental matters under Article 4;

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(xi) Borrower's failure to pay for any loss, liability or expense (including attorneys' fees) incurred by Lender arising out of any claim or allegation made by Borrower, its successors or assigns, or any creditor of Borrower, that this Agreement or the transactions contemplated by the Loan Documents and the Environmental Indemnity Agreement establishes a joint venture, partnership or other similar arrangement between Borrower and Lender;

(xii) any brokerage commission or finder's fees claimed in connection with the transactions contemplated by the Loan Documents;

(xiii) uninsured damage to the Project resulting from acts of terrorism;

(xiv) the filing by Borrower or any of its members, partners, or shareholders, or the filing against Borrower, of a petition under the United States Bankruptcy Code or similar state insolvency laws;

(xv) violation of Section 8.14 of this Agreement;

(xvi) modification or termination of the TIC Agreement in violation of Section 8.3 of this Agreement;

(xvii) violation of Section 6.14 of this Agreement by any Co-Borrower;

(xviii) the violation or alleged violation of any applicable law or regulation governing the sale or syndication of tenant in common ownership interests in the Project; or

(xix) Borrower's failure to pay all costs and fees required by Section 2.5(e) hereof.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Note, and any other Loan Documents, (1) the Loan and all amounts owing under the Loan Documents shall be fully recourse to Borrower and (2) Lender shall not be deemed to have waived any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provisions of the United States Bankruptcy Code to file a claim for the full amount of the Indebtedness secured by the Mortgage or to require that all collateral shall continue to secure all amounts owing to Lender in accordance with the Loan Documents in the event of:

(i) the filing by any Borrower or any Joinder Party files a voluntary petition under the United States Bankruptcy Code or any other Federal or state bankruptcy or insolvency law,

(ii) the filing by an affiliate of any Borrower of an involuntary petition against any Borrower under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law, or any Borrower or any

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affiliate of any Borrower soliciting or causing to be solicited petitioning creditors for any involuntary petition against any Borrower from any person (which soliciting results in the filing of such involuntary petition against any Borrower),

(iii) Any Borrower colluding to arrange and thereafter filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it by any other person under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law,

(iv) Any Borrower consenting to or acquiescing in or joining in an application for the appointment of a custodian, receiver, (other than a receiver requested by Lender in connection with enforcement of its rights under the Loan Documents) trustee, or examiner for any Borrower or any portion of the Project,

(v) Any Borrower making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due, or

(vi) Commencement of a partition action with respect to the Project.

(c) Borrower also shall be personally liable to Lender for any and all attorneys' fees and expenses and court costs incurred by Lender in enforcing this Section 12.1 or otherwise incurred by Lender in connection with any of the foregoing matters, regardless whether such matters are legal or equitable in nature or arise under tort or contract law. The limitation on the personal liability of Borrower in the first sentence hereof shall not modify, diminish or discharge the personal liability of any Joinder Party. Nothing herein shall be deemed to be a waiver of any right which Lender may have under Sections 506(a), 506(b), 1111(b) or any other provision of the United States Bankruptcy Code, to file a claim for the full amount due to Lender under the Loan Documents or to require that all collateral shall continue to secure the amounts due under the Loan Documents.

Section 12.2 **Limitation on Liability of Lender's Officers, Employees, etc.** Any obligation or liability whatsoever of Lender which may arise at any time under this Agreement, any other Loan Document, or the Environmental Indemnity Agreement shall be satisfied, if at all, out of the Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the property of any of Lender's shareholders, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

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EXECUTED as of the date first written above.

LENDER:

GENERAL ELECTRIC CAPITAL CORPORATION,
a Delaware corporation

By:_____
David R. Martindale, Managing Director

BORROWER:

COLUMBIA PARK EAST MHP LLC,
a Delaware limited liability company

By: COLUMBIA MHC EAST, LLC,
a New York limited liability company,
Sole Member

By: COLUMBIA SPE, INC.,
a New York corporation,
Managing Member

By:_____
Robert C. Morgan, President

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BORROWER:

COLUMBIA FAR WEST, LLC,
a Delaware limited liability company

By: COLUMBIA WEST INVESTORS, LC,
a Virginia limited liability company,
Sole Member

By: COMPANY MANAGER, LC,
a Virginia limited liability company,
Manager

By: _____
R. Braxton Hill, III, Manager

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(2)

CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY - 34
MORT 05/03/2007 10:47:40 AM
200705030085

Loan No. 76-0061022

COLUMBIA PARK EAST MHP LLC
and
COLUMBIA FAR WEST, LLC
(collectively, jointly and severally, Mortgagor, each a "Co-Mortgagor")

to

GENERAL ELECTRIC CAPITAL CORPORATION
(Mortgagee)

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

Dated as of May 2, 2007

Property Location:
Columbia Park MHP and Columbia Park Retail, Olmstead Falls, Ohio
Brook Park MHP, Cleveland, Ohio

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:

Andrews Kurth LLP
1717 Main Street, Suite 3700
Dallas, Texas 75201
Attention: Charles T. Marshall, Esq.

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EXHIBIT
tabbies
H

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

This Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (this "**Mortgage**") is executed as of May 2, 2007, by **COLUMBIA PARK EAST MHP LLC**, whose organization number is 4338752, and **COLUMBIA FAR WEST, LLC**, whose organization number is 1695138 each a Delaware limited liability company (collectively, jointly and severally, "**Mortgagor**" and each a "**Co-Mortgagor**"), whose address for notice hereunder is 70 Old Stonefield Way, Pittsford, New York 14534, for the benefit of **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation ("**Mortgagee**"), whose address for notice is c/o GEMSA Loan Services, L.P., 1500 City West Blvd., Suite 200, Houston, Texas 77042-2300, Attention: Portfolio Manager/Access Program.

ARTICLE 1
DEFINITIONS

Section 1.1 **Definitions**. As used herein, the following terms shall have the following meanings:

"**Indebtedness**": The sum of all principal, interest and all other amounts due under or secured by the Loan Documents.

"**Loan**": The Loan made to the Mortgagor by the Mortgagee as evidenced and secured by the Loan Documents.

"**Loan Documents**": The (a) Loan Agreement of even date between Mortgagor and Mortgagee (the "**Loan Agreement**"), (b) Promissory Note of even date, executed by Mortgagor, payable to the order of Mortgagee, in the stated principal amount of $55,000,000.00, (c) this Mortgage, (d) all other documents now or hereafter executed by Mortgagor, or any other person or entity, to evidence, secure or guaranty the payment of all or any portion of the Indebtedness or the performance of all or any portion of the Obligations or otherwise executed in connection with the Note or this Mortgage, and (e) all modifications, restatements, extensions, renewals and replacements of the foregoing; provided however, in no event shall the term "Loan Documents" include that certain Hazardous Materials Indemnity Agreement dated the date hereof in favor of Mortgagee.

"**Mortgaged Property**": (a) the real property described in ***Exhibit A***, together with any greater estate therein as hereafter may be acquired by Mortgagor (the "**Land**"), (b) all buildings, structures and other improvements, now or at any time situated, placed or constructed upon the Land (the "**Improvements**"), (c) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Mortgagor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the "**Fixtures**"), (d) all right, title and interest of Mortgagor in and to all goods,

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accounts, general intangibles, investment property, instruments, letters of credit, letter-of-credit rights, deposit accounts, documents, chattel paper and all other personal property of any kind or character, including such items of personal property as presently or hereafter defined in the UCC, now owned or hereafter acquired by Mortgagor and now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Land and Improvements or which may be used in or relating to the planning, development, financing or operation of the Mortgaged Property, including, without limitation, furniture, furnishings, equipment, machinery, money, insurance proceeds, accounts, contract rights, software, trademarks, goodwill, promissory notes, electronic and tangible chattel paper, payment intangibles, documents, trade names, licenses and/or franchise agreements, rights of Mortgagor under leases of Fixtures or other personal property or equipment, inventory, all refundable, returnable or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Mortgagor with any governmental authorities, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, and commercial tort claims arising from the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Mortgaged Property (the "**Personalty**"), (e) all reserves, escrows or impounds required under the Loan Agreement and all deposit accounts (including accounts holding security deposits) maintained by Mortgagor with respect to the Mortgaged Property, (f) all plans, specifications, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, and all amendments and modifications thereof (the "**Plans**"), (g) all leases, subleases, licenses, concessions, occupancy agreements, rental contracts, or other agreements (written or oral) now or hereafter existing relating to the use or occupancy of all or any part of the Mortgaged Property, together with all guarantees, letters of credit and other credit support, modifications, extensions and renewals thereof (whether before or after the filing by or against Mortgagor of any petition of relief under 11 U.S.C. § 101 *et seq.*, as same may be amended from time to time (the "**Bankruptcy Code**")) and all related security and other deposits (the "**Leases**") and all of Mortgagor's claims and rights (the "**Bankruptcy Claims**") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code, (h) all of the rents, revenues, issues, income, proceeds, profits, and all other payments of any kind under the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (the "**Rents**"), (i) all other agreements, such as construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, franchise agreements, service contracts, permits, licenses, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Mortgaged Property (the "**Property Agreements**"), (j) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, and all right, title and interest, if any, of Mortgagor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof, (k) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof, (l) all insurance policies (regardless of whether required by

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Mortgagee), unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Mortgagor, (m) all mineral, water, oil and gas rights now or hereafter acquired and relating to all or any part of the Mortgaged Property, (n) all tradenames, trademarks, service marks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Mortgaged Property; and (o) all of Mortgagor's right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements, Fixtures or Personalty. As used in this Mortgage, the term "Mortgaged Property" shall mean all or, where the context permits or requires, any portion of the above or any interest therein.

"**Obligations**": All of the agreements, covenants, conditions, warranties, representations and other obligations (other than to repay the Indebtedness) made or undertaken by Mortgagor or any other person or entity to Mortgagee or others as set forth in the Loan Documents.

"**Permitted Encumbrances**": The outstanding liens, easements, restrictions, security interests and other exceptions to title set forth in the policy of title insurance insuring the lien of this Mortgage, together with the liens and security interests in favor of Mortgagee created by the Loan Documents, none of which, individually or in the aggregate, materially interfere with the benefits of the security intended to be provided by this Mortgage, materially and adversely affect the value of the Mortgaged Property, impair the use or operations of the Mortgaged Property or impair Mortgagor's ability to pay its obligations in a timely manner.

"**State**": The State of Ohio.

"**UCC**": The Uniform Commercial Code of the State in effect from time to time or, if the creation, perfection and enforcement of any security interest herein granted is governed by the laws of a state other than the State, then, as to the matter in question, the Uniform Commercial Code in effect in that state from time to time.

Section 1.2 Other Terms. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Loan Agreement.

ARTICLE 2
GRANT

Section 2.1 Grant. To secure the full and timely payment of the Indebtedness and the full and timely performance of the Obligations, Mortgagor hereby MORTGAGES, GRANTS, BARGAINS, SELLS, CONVEYS AND ASSIGNS to Mortgagee the Mortgaged Property, subject, however, to the Permitted Encumbrances; TO HAVE AND TO HOLD the Mortgaged Property to Mortgagee, its successors and assigns, and Mortgagor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Mortgagee.

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ARTICLE 3
WARRANTIES, REPRESENTATIONS AND COVENANTS

Mortgagor warrants, represents and covenants to Mortgagee as follows:

Section 3.1 **Title to Mortgaged Property and Lien of this Instrument**. Mortgagor owns the Mortgaged Property free and clear of any liens, claims or interests, except the Permitted Encumbrances. This Mortgage creates valid, enforceable first priority liens and security interests against the Mortgaged Property. Mortgagor warrants that Mortgagor has good, marketable and insurable title to the Mortgaged Property and has the full power, authority and right to execute, deliver and perform its obligations under this Mortgage.

Section 3.2 **First Lien Status**. Mortgagor shall preserve and protect the first lien and security interest status of this Mortgage and the other Loan Documents. If any lien or security interest other than the Permitted Encumbrances is asserted against the Mortgaged Property, Mortgagor shall promptly, and at its expense, (a) give Mortgagee a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or, in Mortgagee's discretion, provide a bond or other security satisfactory to Mortgagee for the payment of such claim.

Section 3.3 **Payment and Performance**. Mortgagor shall pay the Indebtedness when due under the Loan Documents and shall perform the Obligations in full when they are required to be performed.

Section 3.4 **Replacement of Fixtures and Personalty**. Mortgagor shall not, without the prior written consent of Mortgagee, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is obsolete and is replaced by an article of equal or better suitability and value, owned by Mortgagor subject to the liens and security interests of this Mortgage and the other Loan Documents, and free and clear of any other lien or security interest except such as may be first approved in writing by Mortgagee.

Section 3.5 **Maintenance of Rights of Way, Easements and Licenses**. Mortgagor shall maintain all rights of way, easements, grants, privileges, licenses, certificates, permits, entitlements and franchises necessary for the use of the Mortgaged Property and will not, without the prior consent of Mortgagee, consent to any public restriction (including any zoning ordinance) or private restriction as to the use of the Mortgaged Property. Mortgagor shall comply with all restrictive covenants affecting the Mortgaged Property, and all zoning ordinances and other public or private restrictions as to the use of the Mortgaged Property.

Section 3.6 **Inspection**. Mortgagor shall permit Mortgagee, and Mortgagee's agents, representatives and employees, upon reasonable prior notice to Mortgagor, to inspect the Mortgaged Property and conduct such environmental and engineering studies as Mortgagee may

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require, provided that such inspections and studies shall not materially interfere with the use and operation of the Mortgaged Property.

Section 3.7 Other Covenants. All of the covenants in the Loan Agreement are incorporated herein by reference and, together with covenants in this Article 3, shall be covenants running with the land. The covenants set forth in the Loan Agreement include, among other provisions: (a) the obligation to pay when due all taxes on the Mortgaged Property or assessed against Mortgagee with respect to the Loan, (b) the right of Mortgagee to inspect the Mortgaged Property, (c) the obligation to keep the Mortgaged Property insured as Mortgagee may require, (d) the obligation to comply with all legal requirements (including environmental laws), maintain the Mortgaged Property in good condition, and promptly repair any damage or casualty, and (e) except as otherwise permitted under the Loan Agreement, the obligation of Mortgagor to obtain Mortgagee's consent prior to entering into, modifying or taking other actions with respect to Leases.

Section 3.8 Condemnation Awards and Insurance Proceeds.

(a) **Condemnation Awards.** Mortgagor assigns all awards and compensation for any condemnation or other taking, or any purchase in lieu thereof, to Mortgagee and authorizes Mortgagee to collect and receive such awards and compensation and to give proper receipts and acquittances therefor, subject to the terms of the Loan Agreement.

(b) **Insurance Proceeds.** Mortgagor assigns to Mortgagee all proceeds of any insurance policies insuring against loss or damage to the Mortgaged Property. Mortgagor authorizes Mortgagee to collect and receive such proceeds and authorizes and directs the issuer of each of such insurance policies to make payment for all such losses directly to Mortgagee, instead of to Mortgagor and Mortgagee jointly.

Section 3.9 Transfer or Encumbrance of Mortgaged Property.

(a) Subject to Section 3.9(g), without the prior written consent of Mortgagee,

(i) neither Mortgagor nor any other Person having an ownership or beneficial interest in Mortgagor shall (A) directly or indirectly sell, transfer, convey, mortgage, pledge, or assign any interest in the Mortgaged Property or any part thereof (including any partnership, membership, or any other ownership interest in Mortgagor); (B) further encumber, alienate, grant a Lien or grant any other interest in the Mortgaged Property or any part thereof (including any partnership, membership, or other ownership interest in Mortgagor), whether voluntarily or involuntarily; or (C) enter into any easement or other agreement granting rights in or restricting the use or development of the Mortgaged Property;

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(ii) no new general partner, member, or limited partner having the ability to control the affairs of Mortgagor shall be admitted to or created in Mortgagor (nor shall any existing general partner or member or controlling limited partner withdraw from Mortgagor), and no change in Mortgagor's organizational documents relating to control over Mortgagor and/or the Mortgaged Property shall be effected; and

(iii) no transfer shall be permitted which would cause Kenneth C. Burnham, Robert C. Morgan, George DeGraca, James A. Martin, Steven J. Gordon, and Richard B. Kellem, Jr. collectively not to own a controlling beneficial interest in, and not to have the power to direct the affairs of, Mortgagor.

(b) As used in this Section 3.9, "**transfer**" shall include (i) an installment sales agreement wherein Mortgagor agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments; (ii) an agreement by Mortgagor leasing all or a substantial part of the Mortgaged Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Mortgagor's right, title and interest in and to any Leases or any Rents; (iii) the sale, transfer, conveyance, mortgage, pledge, or assignment of the legal or beneficial ownership of any partnership interest in any general partner in Mortgagor that is a partnership; (iv) the sale, transfer, conveyance, mortgage, pledge, or assignment of the legal or beneficial ownership of any voting stock in any general partner in Mortgagor that is a corporation; and (v) the sale, transfer, conveyance, mortgage, pledge, or assignment of any membership interest in any general partner of Mortgagor that is a limited liability company. Without affecting the applicability of Section 6.14(d) of the Loan, Agreement, "**transfer**" is specifically intended to include any pledge or assignment, directly or indirectly, of a controlling interest in Mortgagor or its general partner, controlling member, or controlling limited partner for purposes of securing so-called "**mezzanine**" indebtedness to such transferor. Notwithstanding anything to the contrary in this Section 3.9, "**transfer**" shall not include (A) the leasing of individual units within the Project so long as Mortgagor complies with the provisions of the Loan Documents relating to such leasing activity; or (B) the transfers of limited partner, membership, or other ownership interests in Mortgagor so long as such transfers, alone or in the aggregate, do not result in the transfer of a controlling interest or more than 49% of the ownership or beneficial interest in the Mortgagor and the provisions of Sections 3.9(a)(ii) and 3.9(a)(iii) are satisfied. Notwithstanding anything in this Section 3.9 to the contrary, (x) no transfer shall be permitted which would be in violation of the covenants set forth in Section 6.15 of the Loan Agreement and (y) each proposed new partner, member or shareholder in Mortgagor and any transferee of the Mortgaged Property after the Closing Date shall be subject to Mortgagee's review of information reasonably requested by Mortgagee and/or upon the results of background checks conducted at Mortgagor's expense by or on behalf of Mortgagee to confirm compliance with Section 6.15.

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(c) Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Indebtedness immediately due and payable upon Mortgagor's sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property without Mortgagee's consent. This provision shall apply to every sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property regardless of whether voluntary or not, or whether or not Mortgagee has consented to any previous sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property.

(d) Mortgagee's consent to one sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property or any interest in Mortgagor shall not be deemed to be a waiver of Mortgagee's right to require such consent to any future occurrence of same. Any sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property made in contravention of this paragraph shall be null and void and of no force and effect.

(e) Mortgagor agrees to bear and shall pay or reimburse Mortgagee on demand for all reasonable expenses (including, without limitation, reasonable attorneys' fees and disbursements, title search costs and title insurance endorsement premiums and Rating Agency [as defined below] fees and expenses) incurred by Mortgagee in connection with the review, approval and documentation of any such sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer.

(f) Mortgagee's consent to the sale or transfer of the Mortgaged Property will not be unreasonably withheld after consideration of all relevant factors, provided that:

(i) no Event of Default or event which with the giving of notice or the passage of time would constitute an Event of Default shall have occurred and remain uncured;

(ii) the proposed transferee ("**Transferee**") shall be a reputable entity or person of good character, creditworthy, with sufficient financial worth considering the obligations assumed and undertaken, as evidenced by financial statements and other information reasonably requested by Mortgagee and shall be a Single Purpose Entity;

(iii) the Transferee and its property manager shall have sufficient experience in the ownership and management of properties similar to the Mortgaged Property, and Mortgagee shall be provided with reasonable evidence thereof (and Mortgagee reserves the right to approve the Transferee without approving the substitution of the property manager);

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(iv) Mortgagee shall have received confirmation in writing from the Rating Agencies (as hereinafter defined) to the effect that such transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned in a Secondary Market Transaction. The term "Rating Agencies" as used herein shall mean each of Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc., Moody's Investors Service, Inc., and Fitch, Inc., or any other nationally-recognized statistical rating agency which has been approved by Mortgagee;

(v) the Transferee shall have executed and delivered to Mortgagee an assumption agreement in form and substance acceptable to Mortgagee, evidencing such Transferee's agreement to abide and be bound by the terms of the Note, this Mortgage and the other Loan Documents, together with such legal opinions and title insurance endorsements as may be reasonably requested by Mortgagee; and

(vi) Mortgagee shall have received an assumption fee equal to one percent (1%) of the then unpaid principal balance of the Note in addition to the payment of all costs and expenses incurred by Mortgagee in connection with such assumption (including reasonable attorneys' fees and costs).

(g) Notwithstanding anything to the contrary contained herein, provided that such transfer does not occur within the thirty (30)-day period prior to a Secondary Market Transaction involving the Note or on or after December 1, 2017, time being expressly of the essence (the date of such transfer is the "**TIC Transferee Date**"), Columbia Park East MHP LLC shall be permitted the right to transfer its tenancy in common interest in the Mortgaged Property to up to an aggregate five (5) Acceptable Delaware LLCs (as defined in the Loan Agreement) (including Columbia Park East MHP LLC, if such entity if it continues to own a tenancy in common interest) owned by one or more of the existing equity owners of Columbia Park East MHP LLC: Kenneth C. Burnham, James A. Martin, Steven J. Gordon, George DaGraca along with Robert C. Morgan, Robyn Morgan, and Herbert Morgan who may form one or more entities together) (collectively, the "**TIC Transferees**" and individually a "**TIC Transferee**"), subject to the following conditions:

(i) Mortgagor and the TIC Transferee shall comply with Mortgagee' requirements regarding tenant-in-common borrowers, including without limitation, the following:

(A) Each TIC Transferee shall be formed as a bankruptcy remote Single Purpose Entity in compliance with Section

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6.14 of the Loan Agreement whose organizational documents shall be subject to Mortgagee's reasonable approval;

(B) Each TIC Transferee shall assume the TIC Agreement;

(C) At the time of closing the conveyance to a TIC Transferee, each TIC Transferee shall represent and warrant to Beneficiary that the TIC Agreement is in full force and effect, there are no defaults, and all sums due and payable have been paid; and

(D) Each TIC Transferee and the individual equity owner thereof approved by Mortgagee shall have executed and delivered a assumption agreement in form and substance required by Mortgagee under which the TIC Transferee shall assume all obligations and liabilities of Borrower and Mortgagor under the Loan Documents, and of Indemnitors under the Environmental Indemnity Agreement.

(ii) Each TIC Transferee (x) shall satisfy the terms of Section 3.9(f), including the payment of all fees and expenses required thereunder and an assumption fee equal to 1% of the amount equal to the principal balance multiplied by the tenancy in common interest transferred and (y) shall be subject to Mortgagee's approval, including without limitation, compliance with Section 6.15 of the Loan Agreement, and each proposed new partner, member or shareholder in each TIC Transferee shall be a reputable Person of good character, as determined by Mortgagee in good faith based upon information reasonably requested by Mortgagee and/or upon the results of background checks conducted at Mortgagor's expense by or on behalf of Mortgagee.

ARTICLE 4
DEFAULT AND FORECLOSURE

Section 4.1 **Remedies**. If an Event of Default (as defined in the Loan Agreement) exists, Mortgagee may, at Mortgagee's election, exercise any or all of the following rights, remedies and recourses:

(a) **Acceleration**. Declare the Indebtedness to be immediately due and payable, without further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever (each of which hereby is expressly waived by Mortgagor), whereupon the same shall become immediately due and payable.

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(b) **Entry on Mortgaged Property**. Enter the Mortgaged Property and take exclusive possession thereof and of all books, records and accounts relating thereto. If Mortgagor remains in possession of the Mortgaged Property after an Event of Default and without Mortgagee's prior written consent, Mortgagee may invoke any legal remedies to dispossess Mortgagor.

(c) **Operation of Mortgaged Property**. Hold, lease, develop, manage, operate or otherwise use the Mortgaged Property upon such terms and conditions as Mortgagee may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Mortgagee deems necessary or desirable), and apply all Rents and other amounts collected by Mortgagee in connection therewith in accordance with the provisions of Section 4.7.

(d) **Foreclosure and Sale**. Institute proceedings for the complete foreclosure of this Mortgage, in which case the Mortgaged Property may be sold for cash or credit in one or more parcels. At any such sale by virtue of any judicial proceedings or any other legal right, remedy or recourse, the title to and right of possession of any such property shall pass to the purchaser thereof, and to the fullest extent permitted by law, Mortgagor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Mortgagor, and against all other persons claiming or to claim the property sold or any part thereof, by, through or under Mortgagor. Mortgagee may be a purchaser at such sale and if Mortgagee is the highest bidder, may credit the portion of the purchase price that would be distributed to Mortgagee against the Indebtedness in lieu of paying cash.

(e) **Receiver**. Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Mortgagor or regard to the adequacy of the Mortgaged Property for the repayment of the Indebtedness, the appointment of a receiver of the Mortgaged Property, and Mortgagor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Section 4.7.

(f) **UCC**. Exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the personal property or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the personal property, and (ii) request Mortgagor at its expense to assemble the personal property and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the personal property sent to Mortgagor in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Mortgagor.

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(g) **Other**. Exercise all other rights, remedies and recourses granted under the Loan Documents or otherwise available at law or in equity (including an action for specific performance of any covenant contained in the Loan Documents, or a judgment on the Note either before, during or after any proceeding to enforce this Mortgage).

Section 4.2 Separate Sales. The Mortgaged Property may be sold in one or more parcels and in such manner and order as Mortgagee in its sole discretion, may elect; the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

Section 4.3 Remedies Cumulative, Concurrent and Nonexclusive. Mortgagee shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including the UCC), which rights (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Mortgagor or others obligated under the Note and the other Loan Documents, or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Mortgagee, (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by Mortgagee in the enforcement of any rights, remedies or recourses under the Loan Documents or otherwise at law or equity shall be deemed to cure any Event of Default.

Section 4.4 Release of and Resort to Collateral. Mortgagee may release, regardless of consideration and without the necessity for any notice to a consent by the holder of any subordinate lien on the Mortgaged Property, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interests created in or evidenced by the Loan Documents or their stature as a first and prior lien and security interest in and to the Mortgaged Property. For payment of the Indebtedness, Mortgagee may resort to any other security in such order and manner as Mortgagee may elect.

Section 4.5 Waiver of Redemption, Notice and Marshalling of Assets. To the fullest extent permitted by law, Mortgagor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Mortgagor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisement, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment, (b) all notices of any Event of Default or of Mortgagee's election to exercise or its actual exercise of any right, remedy or recourse provided for under the Loan Documents, and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

Section 4.6 Discontinuance of Proceedings. If Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon it for any reason, Mortgagee shall have the unqualified right to do so and, in such an event, Mortgagor and Mortgagee shall be restored to their former positions

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with respect to the Indebtedness, the Obligations, the Loan Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Mortgagee shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Mortgagee thereafter to exercise any right, remedy or recourse under the Loan Documents for such Event of Default.

Section 4.7 Application of Proceeds. The proceeds of any sale of, and the Rents and other amounts generated by the holding, leasing, management, operation or other use of the Mortgaged Property, shall be applied by Mortgagee (or the receiver, if one is appointed) in the following order unless otherwise required by applicable law:

(a) to the payment of the reasonable costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (i) receiver's fees and expenses, (ii) court costs, (iii) reasonable attorneys' and accountants' fees and expenses, (iv) costs of advertisement, (v) insurance premiums and (vi) the payment of all ground rent, real estate taxes and assessments, except any taxes, assessments or other charges subject to which the Mortgaged Property shall have been sold;

(b) to the payment of all amounts (including interest), other than the unpaid principal balance of the Note and accrued but unpaid interest, which may be due to Mortgagee under the Loan Documents;

(c) to the payment of the Indebtedness and performance of the Obligations in such manner and order of preference as Mortgagee in its sole discretion may determine; and

(d) the balance, if any, to the payment of the persons legally entitled thereto.

Section 4.8 Occupancy After Foreclosure. The purchaser at any foreclosure sale pursuant to Section 4.1(d) shall become the legal owner of the Mortgaged Property. All occupants of the Mortgaged Property shall, at the option of such purchaser, become tenants of the purchaser at the foreclosure sale and shall deliver possession thereof immediately to the purchaser upon demand. It shall not be necessary for the purchaser at said sale to bring any action for possession of the Mortgaged Property other than the statutory action of forcible detainer in any justice court having jurisdiction over the Mortgaged Property.

Section 4.9 Additional Advances and Disbursements; Costs of Enforcement.

(a) If any Event of Default exists, Mortgagee shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Mortgagor. All sums advanced and expenses incurred at any time by Mortgagee under this Section 4.9, or otherwise under this Mortgage or any of the other Loan Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of

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reimbursement, computed at the Default Rate (as defined in the Loan Agreement), and all such sums, together with interest thereon, shall be secured by this Mortgage.

(b) Mortgagor shall pay all expenses (including reasonable attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Mortgage and the other Loan Documents, or the enforcement, compromise or settlement of the Indebtedness or any claim under this Mortgage and the other Loan Documents, and for the curing thereof, or for defending or asserting the rights and claims of Mortgagee in respect thereof, by litigation or otherwise.

Section 4.10 **No Mortgagee in Possession**. Neither the enforcement of any of the remedies under this Article 4, the assignment of the Rents and Leases under Article 5, the security interests under Article 6, nor any other remedies afforded to Mortgagee under the Loan Documents, at law or in equity shall cause Mortgagee to be deemed or construed to be a mortgagee in possession of the Mortgaged Property, to obligate Mortgagee to lease the Mortgaged Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

Section 4.11 **Actions and Proceedings**. Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its discretion, decides should be brought to protect its interest in the Mortgaged Property.

ARTICLE 5
ASSIGNMENT OF LEASES AND RENTS

Section 5.1 **Assignment**. Mortgagor acknowledges and confirms that it has executed and delivered to Mortgagee an Assignment of Leases and Rents of even date (the "**Assignment of Leases and Rents**"), intending that such instrument create a present, absolute assignment to Mortgagee of the Leases and Rents. Without limiting the intended benefits or the remedies provided under the Assignment of Leases and Rents, Mortgagor hereby assigns to Mortgagee, as further security for the Indebtedness and the Obligations, the Leases and Rents. While any Event of Default exists, Mortgagee shall be entitled to exercise any or all of the remedies provided in the Assignment of Leases and Rents and in Article 4 hereof, including, without limitation, the right to have a receiver appointed. If any conflict or inconsistency exists between the assignment of the Rents and the Leases in this Mortgage and the absolute assignment of the Rents and the Leases in the Assignment of Leases and Rents, the terms of the Assignment of Leases and Rents shall control.

Section 5.2 **No Merger of Estates**. So long as any part of the Indebtedness and the Obligations secured hereby remain unpaid and undischarged, the fee and leasehold estates to the Mortgaged Property shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Mortgagor, Mortgagee, any lessee or any third party by purchase or otherwise.

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ARTICLE 6
SECURITY AGREEMENT

Section 6.1 **Security Interest**. This Mortgage constitutes a "Security Agreement" on personal property within the meaning of the UCC and other applicable law and with respect to the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements. To this end, Mortgagor grants to Mortgagee, a first and prior security interest in the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements and all other Mortgaged Property which is personal property to secure the payment of the Indebtedness and performance of the Obligations, and agrees that Mortgagee shall have all the rights and remedies of a secured party under the UCC with respect to such property. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements sent to Mortgagor at least five (5) days prior to any action under the UCC shall constitute reasonable notice to Mortgagor.

Section 6.2 **Financing Statements**. Mortgagor shall deliver to Mortgagee, in form and substance satisfactory to Mortgagee, such financing statements and such further assurances as Mortgagee may, from time to time, reasonably consider necessary to create, perfect and preserve Mortgagee's security interest hereunder and Mortgagee may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Mortgagor's state of organization is the State of Delaware and its chief executive office is in the State of New York at the address set forth in the first paragraph of this Mortgage.

Section 6.3 **Fixture Filing**. This Mortgage shall also constitute a "fixture filing" for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of Debtor (Mortgagor) and Secured Party (Mortgagee) as set forth in the first paragraph of this Mortgage.

ARTICLE 7
MISCELLANEOUS

Section 7.1 **Limitation on Interest**. It is the intention of the parties hereto to conform strictly to applicable usury laws. Accordingly, all agreements between Mortgagor and Mortgagee with respect to the Loan are hereby expressly limited so that in no event, whether by reason of acceleration of maturity or otherwise, shall the amount paid or agreed to be paid to Mortgagee or charged by Mortgagee for the use, forbearance or detention of the money to be lent hereunder or otherwise, exceed the maximum amount allowed by law. If the Loan would be usurious under applicable law (including the laws of the state where the Mortgaged Property is located and the laws of the United States of America), then, notwithstanding anything to the contrary in the Loan Documents: (a) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, taken, reserved, charged or received under the Loan

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Documents shall under no circumstances exceed the maximum amount of interest allowed by applicable law, and any excess shall be credited on the Indebtedness; and (b) if maturity is accelerated by reason of an election by Mortgagee, or in the event of any prepayment, then any consideration which constitutes interest may never include more than the maximum amount allowed by applicable law. In such case, excess interest, if any, provided for in the Loan Documents or otherwise, to the extent permitted by applicable law, shall be amortized, prorated, allocated and spread from the date of advance until payment in full so that the actual rate of interest is uniform through the term hereof. If such amortization, proration, allocation and spreading is not permitted under applicable law, then such excess interest shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited on the Indebtedness. The Loan Documents are contracts made under and shall be construed in accordance with and governed by the laws of the State, except that if at any time the laws of the United States of America permit Mortgagee to contract for, take, reserve, charge or receive a higher rate of interest than is allowed by the laws of the State (whether such federal laws directly so provide or refer to the law of any state), then such federal laws shall to such extent govern as to the rate of interest which Mortgagee may contract for, take, reserve, charge or receive under the Loan Documents.

Section 7.2 **Notices**. Any notice required or permitted to be given under this Mortgage shall be (a) in writing, (b) sent in the manner set forth in the Loan Agreement, and (c) effective in accordance with the terms of the Loan Agreement.

Section 7.3 **Covenants Running with the Land**. All Obligations contained in this Mortgage are intended by Mortgagor and Mortgagee to be, and shall be construed as, covenants running with the Mortgaged Property. As used herein, "Mortgagor" shall refer to the party named in the first paragraph of this Mortgage and to any subsequent owner of all or any portion of the Mortgaged Property (without in any way implying that Mortgagee has or will consent to any such conveyance or transfer of the Mortgaged Property). All persons or entities who may have or acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Loan Agreement and the other Loan Documents; however, no such party shall be entitled to any rights thereunder without the prior written consent of Mortgagee.

Section 7.4 **Attorney-in-Fact**. Mortgagor hereby irrevocably appoints Mortgagee and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) to execute and/or record any notices of completion, cessation of labor or any other notices that Mortgagee deems appropriate to protect Mortgagee's interest, if Mortgagor shall fail to do so within ten (10) days after written request by Mortgagee, (b) upon the issuance of a deed pursuant to the foreclosure of this Mortgage or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Personalty, Fixtures, Plans and Property Agreements in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Mortgagee's security interests and rights in or to any of

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the collateral, and (d) while any Event of Default exists, to perform any obligation of Mortgagor hereunder; however: (i) Mortgagee shall not under any circumstances be obligated to perform any obligation of Mortgagor; (ii) any sums advanced by Mortgagee in such performance shall be added to and included in the Indebtedness and shall bear interest at the Default Rate; (iii) Mortgagee as such attorney-in-fact shall only be accountable for such funds as are actually received by Mortgagee; and (iv) Mortgagee shall not be liable to Mortgagor or any other person or entity for any failure to take any action which it is empowered to take under this Section.

Section 7.5 **Successors and Assigns**. This Mortgage shall be binding upon and inure to the benefit of Mortgagee and Mortgagor and their respective successors and assigns. Mortgagor shall not, without the prior written consent of Mortgagee, assign any rights, duties or obligations hereunder.

Section 7.6 **No Waiver**. Any failure by Mortgagee to insist upon strict performance of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of same, and Mortgagee shall have the right at any time to insist upon strict performance of all of such terms, provisions and conditions.

Section 7.7 **Subrogation**. To the extent proceeds of the Note have been used to extinguish, extend or renew any indebtedness against the Mortgaged Property, then Mortgagee shall be subrogated to all of the rights, liens and interests existing against the Mortgaged Property and held by the holder of such indebtedness and such former rights, liens and interests, if any, are not waived, but are continued in full force and effect in favor of Mortgagee.

Section 7.8 **Loan Agreement**. If any conflict or inconsistency exists between this Mortgage and the Loan Agreement, the Loan Agreement shall govern.

Section 7.9 **Release**. Upon payment in full of the Indebtedness and performance in full of the Obligations, Mortgagee, at Mortgagor's expense, shall release the liens and security interests created by this Mortgage.

Section 7.10 **Waiver of Stay, Moratorium and Similar Rights**. Mortgagor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any appraisement, valuation, stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this Mortgage or the indebtedness secured hereby, or any agreement between Mortgagor and Mortgagee or any rights or remedies of Mortgagee.

Section 7.11 **Limitation on Liability**. Mortgagor's liability hereunder is subject to the limitation on liability provisions of Article 12 of the Loan Agreement.

Section 7.12 **Obligations of Mortgagor, Joint and Several**. If more than one person or entity has executed this Mortgage as "Mortgagor," the obligations of all such persons or entities hereunder shall be joint and several.

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Section 7.13 Governing Law. This Mortgage shall be governed by the laws of the State and the applicable laws of the United States of America.

Section 7.14 Headings. The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

Section 7.15 Entire Agreement. This Mortgage and the other Loan Documents embody the entire agreement and understanding between Mortgagee and Mortgagor and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

Section 7.16 Counterparts. This Mortgage may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

ARTICLE 8
SPECIAL STATE PROVISIONS

Section 8.1 Priority of Mortgage Lien. Mortgagee is authorized to do all matters permitted and sanctioned by O.R.C. Section 1311.14 as now existing or hereafter amended.

Section 8.2 Attorneys' Fees. This Mortgage evidences Indebtedness exceeding $100,000.00 and shall be deemed a loan for business purposes and a "Contract of Indebtedness" as the same is defined in Ohio Revised Code, Section 1301.21. Mortgagor agrees to pay reasonable attorneys' fees which arise in connection with Mortgagee's enforcement of this Mortgage through judicial proceedings or otherwise, after maturity of the debt.

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EXECUTED as of the date first above written.

COLUMBIA PARK EAST MHP LLC,
a Delaware limited liability company

By: COLUMBIA MHC EAST, LLC,
a New York limited liability company,
Sole Member

By: COLUMBIA SPE, INC.,
a New York corporation,
Managing Member

By:_____
Robert C. Morgan, President

STATE OF New York)
):
COUNTY OF Monroe)

This instrument was acknowledged before me on May 2, 2007, by ROBERT C. MORGAN, President of COLUMBIA SPE, INC., a New York corporation and Managing Member of COLUMBIA MHC EAST, LLC, a New York limited liability company and Managing Member of COLUMBIA PARK EAST MHP LLC, a Delaware limited liability company, on behalf of said limited liability companies.

Kyle L. DiStefano
Notary Public, State of New York
My Commission Expires: 7/26/09

KYLE L. DISTEFANO
Notary Public, State of New York
County of Monroe, Reg#01DI6028169
Commission Expires July 26, 2009

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COLUMBIA FAR WEST, LLC,
a Delaware limited liability company

By: Columbia West Investors, LC
a Virginia limited liability company,
Sole Member

By: COMPANY MANAGER, LC,
a Virginia limited liability company,
Manager

By: _____
R. Braxton Hill, III, Manager

STATE OF Virginia)
):
COUNTY OF Virginia Beach

This instrument was acknowledged before me on ~~May~~ April 30, 2007, by R. BRAXTON HILL, III, Manager of COMPANY MANAGER, LC, a Virginia limited liability company and Manager of Columbia West Investors, LC, a Virginia limited liability company and Sole Member of COLUMBIA FAR WEST, LLC, a Delaware limited liability company, on behalf of said limited liability companies.

_____
Notary Public
My Commission Expires: _____

Embossed Hereon is My Commonwealth of Virginia Notary Public Seal
My Commission Expires July 31, 2009
REBEKAH ROACH

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EXHIBIT A

Legal Description

Parcel No. 1 (Columbia Trailer Park)

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

1. Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

2. Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

3. Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

4. Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

5. Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

6. Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

7. Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

8. Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

9. Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

10. Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

11. Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

12. Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

13. Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

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14. Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

15. Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

16. Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

17. Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

18. Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

19. Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

20. Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

21. Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

22. Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

23. Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

24. Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

25. Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

26. Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

27. Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

28. Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

29. Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

30. Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

31. Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

32. Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

33. Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

34. Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

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35. Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

36. Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

37. Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

38. Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

39. Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

40. Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

41. Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

42. Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

43. Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

44. Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

45. Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

46. Thence South 00 deg. 28' 00" East, 144.08 ft. to a point;

47. Thence North 89 deg. 27' 10" East, 231.71 ft. to a point;

48. Thence South 53 deg. 22' 33" West, 217.76 ft. to a point;

49. Thence South 01 deg. 44' 34" East, 145.00 ft. to a point;

50. Thence South 43 deg. 30' 43" West, 56.32 ft. to a point;

51. Thence South 88 deg. 46' 00" West, 105.00 ft. to a point;

52. Thence South 01 deg. 44' 34" East, 387.90 ft. to the point of beginning and containing 212.3636 acres of land, according to a survey by Eric Nelson, Registered Ohio Surveyor No. 7348 on January 17, 2000, be the same more or less, but subject to all legal highways.

Parcel No. 2 (Columbia Shops)
Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

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Beginning in the centerline of Columbia Road, 60 ft. wide, at a point distant North 01 deg. 44' 34" West, 235.00 ft. therefrom from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' 00" West, 340.00 ft. to a point;

Thence South 01 deg. 44' 34" East, 65.00 ft., parallel with said centerline of Columbia Road to a point;

Thence South 88 deg. 46' 00" West, 175.00 ft. to a point;

Thence North 01 deg. 44' 34" West, 215.00 ft., parallel with said centerline of Columbia Road to a point;

Thence North 88 deg. 46' 00" East, 105.00 ft. to a point;

Thence North 43 deg. 30' 43" East, 56.32 ft. to a point;

Thence North 01 deg. 44' 34" West, 145.00 ft. parallel with said centerline of Columbia Road to a point;

Thence North 53 deg. 22' 23" East, 217.76 ft. to a point;

Thence North 89 deg. 27' 10" East, 191.39 ft. to a point in said centerline of Columbia Road;

Thence South 01 deg. 44' 34" East, 458.83 ft. to the place of beginning containing 4.4318 acres of land according to a survey in December 1991 by Giles Nelson, Ohio Surveyor No. 4630, be the same more or less, but subject to all legal highways.

And further known as being Parcel No. 4 in the Subdivision Plat of Trailer Mart, Inc. as shown by the recorded plat in Volume 266 of Maps, Page 64 of Cuyahoga County Records.

Parcel No. 3 (Lift Station Easement)

A Non-exclusive Easement for the purpose of construction, erection, placement, maintenance and alteration of a sanitary sewer lift station and pump station, as established by instrument recorded in Volume 86-7223, Page 17 of Cuyahoga County Records, and assigned in Cuyahoga County Recorders File Number 200106260775, over the following parcel of land, bounded and described as follows:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio, being known as part of Lot 5, Tract 5 in said Olmsted Township, and more definitely described as follows:

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Beginning at the intersection of the centerline of Columbia Road and the line between Olmsted Township Tracts 5 and 7;

Thence South 01 deg. 04' 57" West in the centerline of Columbia Road, a distance of 365.00 ft. to a point;

Thence North 89 deg. 36' 58" West, a distance of 291.00 ft. to a point, said point is the principal place of beginning;

Thence continuing North 89 deg. 36' 58" West, a distance of 15.00 ft. to a point;

Thence South 01 deg. 04' 57" West, a distance of 110.00 ft. to a point;

Thence South 89 deg. 36' 58" East, a distance of 15.00 ft. to a point;

Thence North 01 deg. 04' 57" East, a distance of 110.00 ft. to the principal place of beginning be the same more or less, but subject to all legal highways.

Parcel No. 4 (Parkway Dr. Easement)

A Non-exclusive Easement for ingress and egress, encroachments and utilities appurtenant to Parcel 1, as established by instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records and amended by instrument recorded as Cuyahoga County Auditor's File Number 200106260770 over the following described property:

Situated in the Township Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, distant North 01 deg. 44' 34" West 160.00 ft. from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' West, 515.00 ft. to a point in an Easterly line of parcel 8 described in instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records;

Thence North 01 deg. 44' 34" West, 60 ft. along said Easterly line of Parcel No. 8 to a point;

Thence North 88 deg. 46' East, 515.00 ft. to a point in said center line of Columbia Road;

Thence South 01 deg. 44' 34" East, 60.00 ft. to the place of beginning containing 0.7094 acres of land be the same more or less but subject to all legal highways.

Parcel No. 5 (Easement for carport and asphalt drive)

A Non-exclusive Easement for carport and asphalt drive appurtenant to Parcel 1, as established by

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instrument recorded as Cuyahoga County Recorders File Number 200106260776 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 0' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

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Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

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Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 62.11 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 47.20 ft. to a point;

Thence South 01 deg. 21' 10" East, 90.07 ft. to a point;

Thence South 88 deg. 38' 50" West, 47.20 ft. to a point;

Thence North 01 deg. 21' 10" West, 90.07 ft. to the principal place of beginning and containing 0.0976 acres of land (4,251 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 6 (Easement for asphalt drive)

A Non-exclusive Easement for asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260777 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

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Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

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Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

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Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 246.62 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 35.58 ft. to a point;

Thence South 01 deg. 21' 10" East, 186.17 ft. to a point;

Thence South 88 deg. 38' 50" West, 35.58 ft. to a point;

Thence North 01 deg. 21' 10" West, 186.17 ft. to the principal place of beginning and containing 0.1521 acres of land (6,625 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 7 (Easement for manufactured homes)

A Non-exclusive Easement for manufactured homes appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260778 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 515.00 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

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Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

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Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

Thence South 01 deg. 28' 00" East, 92.46 ft. to the principal point of beginning of the premises herein described;

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Thence South 55 deg. 52' 41" East, 90.75 ft. to a point;

Thence South 89 deg. 27' 10" West, 74.71 ft. to a point;

Thence North 00 deg. 28' 00" West, 51.62 ft. to the principal place of beginning and containing 0.0443 acres of land (1,930 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 8 (Cleveland trailer park)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Rockport Township Section No. 1 and bounded and described as follows:
Beginning on the centerline of Brookpark Road, S.W., (100 ft. wide), at the Southeasterly corner of said Original Rockport Township Section No. 1;

Thence South 89 deg. 03' 00" West, along the centerline of Brookpark Road, S.W., 429.11 ft. to the Southeasterly corner of land conveyed to The S.C.K. Corporation, by deed dated May 12, 1954 and recorded in Volume 8043, Page 722 of Cuyahoga County Records;

Thence North 00 deg. 32' 30" West, along the Easterly line of land so conveyed to The S.C.K. Corporation, 1120.97 ft. to the southerly line of Parcel No. 1 of land conveyed to The New York Central Railroad Co. by deed dated October 17, 1946 and recorded in Volume 6235, Page 526 of Cuyahoga County Records;

Thence South 89 deg. 48' 10" East, along the Southerly line of the first parcel of land so conveyed, 429.13 ft. to the easterly line of said Original Rockport Township Section No. 1;

Thence South 00 deg. 32' 30" East, along the easterly line of said Section No. 1, 1112.38 ft. to the place of beginning, be the same more or less, but subject to all legal highways.

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[redacted]

CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY - 18
FIX 05/03/2007 10:47:40 AM
200705039002

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)
Charles T. Marshall, Esq. 214.659.4509

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Linda Krieg for Charles T. Marshall, Esq.
Andrews Kurth LLP
1717 Main Street, Suite 3700
Dallas, Texas 75201

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: COLUMBIA PARK EAST MHP LLC

OR

1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

1c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
70 Old Stonefield Way	Pittsford	NY	14534	USA

1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any
		limited liability co.	Delaware	4338752 ☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME: COLUMBIA FAR WEST, LLC

OR

2b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
70 Old Stonefield Way	Pittsford	NY	14534	USA

2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any
		limited liability co.	Delaware	☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: GENERAL ELECTRIC CAPITAL CORPORATION

OR

3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

3c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
c/o GEMSA Loan Services, L.P., 1500 City West Blvd., Suite 200	Houston	TX	77042	USA

4. This FINANCING STATEMENT covers the following collateral:

All of the personal property described in the Schedule of Collateral attached hereto, owned or hereafter acquired by Debtor and located on or about or in any way pertaining to the real property in Cuyahoga County, Ohio, as more particularly described in EXHIBIT A attached hereto (the "Land") and Debtor's right, title and interest in the improvements constructed or to be constructed thereon (collectively, the "Mortgaged Property"), including fixtures.

The financing statement relates to an obligation secured by a security interest in collateral hereinafter mentioned and a mortgage on real estate hereinafter mentioned from Debtor to Secured party, said real estate mortgage was recorded on _____, 2007, in Book _____, Page _____, Recorder's Office, Cuyahoga, County, Ohio. Maturity date or final date of said obligation is _____.

THIS IS A FIXTURE FILING. See attached Schedule 1 for description of collateral.

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☒ This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional) ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA
Columbia Brook Park-OH / 171695 / Loan No. 76-0061022 *Cuyahoga County, OH Filing*

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)
NATUCC1 - 5/4/01 C T System Online

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EXHIBIT
tabbies
1

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR COLUMBIA PARK EAST MHP LLC

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME,SUFFIX

10. MISCELLANEOUS:

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11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any
				☐ NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

12c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☒ fixture filing.

14. Description of real estate:

See EXHIBIT A attached hereto for complete legal description.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

See SCHEDULE OF COLLATERAL for complete description of collateral covered.

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years

☐ Filed in connection with a Public-Finance Transaction — effective 30 years

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SCHEDULE OF COLLATERAL
TO FINANCING STATEMENT

The financing statement covers the following:

(a) all buildings, structures and other improvements, now or at any time situated, placed or constructed upon the Land (the "**Improvements**"),

(b) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Debtor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the "**Fixtures**"),

(c) all right, title and interest of Debtor in and to all goods, accounts, general intangibles, investment property, instruments, letters of credit, letter-of-credit rights, deposit accounts, documents, chattel paper and all other personal property of any kind or character, including such items of personal property as presently or hereafter defined in the UCC, now owned or hereafter acquired by Debtor and now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Land and Improvements or which may be used in or relating to the planning, development, financing or operation of the Land, Improvements and Personalty, including, without limitation, furniture, furnishings, equipment, machinery, money, insurance proceeds, accounts, contract rights, software, trademarks, goodwill, promissory notes, electronic and tangible chattel paper, payment intangibles, documents, trade names, licenses and/or franchise agreements, rights of Debtor under leases of Fixtures or other personal property or equipment, inventory, all refundable, returnable or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Debtor with any governmental authorities, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, and commercial tort claims arising from the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Land, Improvements, and Fixtures (the "**Personalty**"),

(d) all reserves, escrows or impounds required under the Loan Agreement executed by Debtor and Secured Party and all deposit accounts (including accounts holding security deposits) maintained by Debtor with respect to the Land, Improvements and Personalty,

(e) all plans, specifications, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, and all amendments and modifications thereof (the "**Plans**"),

(f) all leases, subleases, licenses, concessions, occupancy agreements, rental contracts, or other agreements (written or oral) now or hereafter existing relating to the use or

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occupancy of all or any part of the Land, Improvements, and Personalty, together with all guarantees, letters of credit and other credit support, modifications, extensions and renewals thereof (whether before or after the filing by or against Debtor of any petition of relief under 11 U.S.C. § 101 et seq., as same may be amended from time to time (the "**Bankruptcy Code**")) and all related security and other deposits (the "**Leases**") and all of Debtor's claims and rights (the "**Bankruptcy Claims**") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code,

(g) all of the rents, revenues, issues, income, proceeds, profits, and all other payments of any kind under the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Land, Improvements and Personalty whether paid or accruing before or after the filing by or against Debtor of any petition for relief under the Bankruptcy Code (the "**Rents**"),

(h) all other agreements, such as construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, franchise agreements, service contracts, permits, licenses, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Land, Improvements and Personalty (the "**Property Agreements**"),

(i) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, and all right, title and interest, if any, of Debtor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof,

(j) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof,

(k) all insurance policies (regardless of whether required by Secured Party), unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Debtor,

(l) all mineral, water, oil and gas rights now or hereafter acquired and relating to all or any part of the Land, Improvements, and Personalty,

(m) all tradenames, trademarks, service marks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Land, Improvements and Personalty; and

(n) all of Debtor's right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements, Fixtures or Personalty.

Some or all of the aforementioned collateral is located at or officed to the real estate described in ***Exhibit A*** attached hereto and incorporated by reference herein. The record owner of such real estate is the Debtor.

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EXHIBIT A

Legal Description

Parcel No. 1 (Columbia Trailer Park)

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

1. Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

2. Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

3. Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

4. Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

5. Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

6. Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

7. Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

8. Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

9. Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

10. Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

11. Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

12. Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

13. Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

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14. Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

15. Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

16. Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

17. Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

18. Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

19. Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

20. Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

21. Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

22. Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

23. Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

24. Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

25. Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

26. Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

27. Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

28. Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

29. Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

30. Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

31. Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

32. Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

33. Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

34. Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

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35. Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

36. Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

37. Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

38. Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

39. Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

40. Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

41. Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

42. Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

43. Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

44. Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

45. Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

46. Thence South 00 deg. 28' 00" East, 144.08 ft. to a point;

47. Thence North 89 deg. 27' 10" East, 231.71 ft. to a point;

48. Thence South 53 deg. 22' 33" West, 217.76 ft. to a point;

49. Thence South 01 deg. 44' 34" East, 145.00 ft. to a point;

50. Thence South 43 deg. 30' 43" West, 56.32 ft. to a point;

51. Thence South 88 deg. 46' 00" West, 105.00 ft. to a point;

52. Thence South 01 deg. 44' 34" East, 387.90 ft. to the point of beginning and containing 212.3636 acres of land, according to a survey by Eric Nelson, Registered Ohio Surveyor No. 7348 on January 17, 2000, be the same more or less, but subject to all legal highways.

Parcel No. 2 (Columbia Shops)
Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

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Beginning in the centerline of Columbia Road, 60 ft. wide, at a point distant North 01 deg. 44' 34" West, 235.00 ft. therefrom from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' 00" West, 340.00 ft. to a point;

Thence South 01 deg. 44' 34" East, 65.00 ft., parallel with said centerline of Columbia Road to a point;

Thence South 88 deg. 46' 00" West, 175.00 ft. to a point;

Thence North 01 deg. 44' 34" West, 215.00 ft., parallel with said centerline of Columbia Road to a point;

Thence North 88 deg. 46' 00" East, 105.00 ft. to a point;

Thence North 43 deg. 30' 43" East, 56.32 ft. to a point;

Thence North 01 deg. 44' 34" West, 145.00 ft. parallel with said centerline of Columbia Road to a point;

Thence North 53 deg. 22' 23" East, 217.76 ft. to a point;

Thence North 89 deg. 27' 10" East, 191.39 ft. to a point in said centerline of Columbia Road;

Thence South 01 deg. 44' 34" East, 458.83 ft. to the place of beginning containing 4.4318 acres of land according to a survey in December 1991 by Giles Nelson, Ohio Surveyor No. 4630, be the same more or less, but subject to all legal highways.

And further known as being Parcel No. 4 in the Subdivision Plat of Trailer Mart, Inc. as shown by the recorded plat in Volume 266 of Maps, Page 64 of Cuyahoga County Records.

Parcel No. 3 (Lift Station Easement)

A Non-exclusive Easement for the purpose of construction, erection, placement, maintenance and alteration of a sanitary sewer lift station and pump station, as established by instrument recorded in Volume 86-7223, Page 17 of Cuyahoga County Records, and assigned in Cuyahoga County Recorders File Number 200106260775, over the following parcel of land, bounded and described as follows:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio, being known as part of Lot 5, Tract 5 in said Olmsted Township, and more definitely described as follows:

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Beginning at the intersection of the centerline of Columbia Road and the line between Olmsted Township Tracts 5 and 7;

Thence South 01 deg. 04' 57" West in the centerline of Columbia Road, a distance of 365.00 ft. to a point;

Thence North 89 deg. 36' 58" West, a distance of 291.00 ft. to a point, said point is the principal place of beginning;

Thence continuing North 89 deg. 36' 58" West, a distance of 15.00 ft. to a point;

Thence South 01 deg. 04' 57" West, a distance of 110.00 ft. to a point;

Thence South 89 deg. 36' 58" East, a distance of 15.00 ft. to a point;

Thence North 01 deg. 04' 57" East, a distance of 110.00 ft. to the principal place of beginning be the same more or less, but subject to all legal highways.

Parcel No. 4 (Parkway Dr. Easement)

A Non-exclusive Easement for ingress and egress, encroachments and utilities appurtenant to Parcel 1, as established by instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records and amended by instrument recorded as Cuyahoga County Auditor's File Number 200106260770 over the following described property:

Situated in the Township Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, distant North 01 deg. 44' 34" West 160.00 ft. from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' West, 515.00 ft. to a point in an Easterly line of parcel 8 described in instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records;

Thence North 01 deg. 44' 34" West, 60 ft. along said Easterly line of Parcel No. 8 to a point;

Thence North 88 deg. 46' East, 515.00 ft. to a point in said center line of Columbia Road;

Thence South 01 deg. 44' 34" East, 60.00 ft. to the place of beginning containing 0.7094 acres of land be the same more or less but subject to all legal highways.

Parcel No. 5 (Easement for carport and asphalt drive)

A Non-exclusive Easement for carport and asphalt drive appurtenant to Parcel 1, as established by

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instrument recorded as Cuyahoga County Recorders File Number 200106260776 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 0' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

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Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

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Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 62.11 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 47.20 ft. to a point;

Thence South 01 deg. 21' 10" East, 90.07 ft. to a point;

Thence South 88 deg. 38' 50" West, 47.20 ft. to a point;

Thence North 01 deg. 21' 10" West, 90.07 ft. to the principal place of beginning and containing 0.0976 acres of land (4,251 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 6 (Easement for asphalt drive)

A Non-exclusive Easement for asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260777 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

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Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

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Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

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Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 246.62 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 35.58 ft. to a point;

Thence South 01 deg. 21' 10" East, 186.17 ft. to a point;

Thence South 88 deg. 38' 50" West, 35.58 ft. to a point;

Thence North 01 deg. 21' 10" West, 186.17 ft. to the principal place of beginning and containing 0.1521 acres of land (6,625 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 7 (Easement for manufactured homes)

A Non-exclusive Easement for manufactured homes appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260778 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 515.00 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

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Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

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Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

Thence South 01 deg. 28' 00" East, 92.46 ft. to the principal point of beginning of the premises herein described;

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Thence South 55 deg. 52' 41" East, 90.75 ft. to a point;

Thence South 89 deg. 27' 10" West, 74.71 ft. to a point;

Thence North 00 deg. 28' 00" West, 51.62 ft. to the principal place of beginning and containing 0.0443 acres of land (1,930 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 8 (Cleveland trailer park)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Rockport Township Section No. 1 and bounded and described as follows:
Beginning on the centerline of Brookpark Road, S.W., (100 ft. wide), at the Southeasterly corner of said Original Rockport Township Section No. 1;

Thence South 89 deg. 03' 00" West, along the centerline of Brookpark Road, S.W., 429.11 ft. to the Southeasterly corner of land conveyed to The S.C.K. Corporation, by deed dated May 12, 1954 and recorded in Volume 8043, Page 722 of Cuyahoga County Records;

Thence North 00 deg. 32' 30" West, along the Easterly line of land so conveyed to The S.C.K. Corporation, 1120.97 ft. to the southerly line of Parcel No. 1 of land conveyed to The New York Central Railroad Co. by deed dated October 17, 1946 and recorded in Volume 6235, Page 526 of Cuyahoga County Records;

Thence South 89 deg. 48' 10" East, along the Southerly line of the first parcel of land so conveyed, 429.13 ft. to the easterly line of said Original Rockport Township Section No. 1;

Thence South 00 deg. 32' 30" East, along the easterly line of said Section No. 1, 1112.38 ft. to the place of beginning, be the same more or less, but subject to all legal highways.

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CUYAHOGA COUNTY RECORDER
PATRICK O'MALLEY - 17
RELA 2/25/2008 8:49:30 AM
200802250010

Return to:

Anderson, McCoy & Orta, P.C.
100 North Broadway, Ste. 2600
Oklahoma City, OK 73102
AMO File No.: 1149.062
Ref: MLMT 2007-C1

Loan No. 76-0061022

ASSIGNMENT OF LOAN DOCUMENTS AND MORTGAGE
Assignment of Leases and Rents, Security Agreement and Fixture Filing

STATE OF OHIO §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF CUYAHOGA §

This Assignment of Loan Documents and Mortgage (the "**Assignment**") is made and entered into as of the 12th day of July, 2007, by **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation ("**Assignor**"), for the benefit of **U.S. Bank National Association**, as Trustee for the registered holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1 ("**Assignee**"), See Schedule 1 attached hereto for complete address.

1. Assignor has previously made a mortgage loan in the principal amount of $55,000,000 ("**Loan**") to COLUMBIA PARK EAST MHP LLC, a Delaware limited liability company and COLUMBIA FAR WEST, LLC, Delaware limited liability company (collectively, jointly and severally, "**Borrower**"). The Loan is secured by a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing ("**Mortgage**") executed by Borrower dated May 2, 2007, on the property known as Columbia Park MHC and Brook Park MHC, and recorded May 3, 2007 as Instrument No. 200705030085 in the official public records of Cuyahoga County, Ohio, of which cover the real property described on ***Exhibit A*** attached hereto. The Mortgage and any and all other documents evidencing, governing or securing the Loan are hereinafter referred to as the "Loan Documents."

2. Assignor desires to assign, transfer and convey without recourse, representation or warranty all of its right, title and interest in the Loan, the Mortgage and the Loan Documents to Assignee, without recourse, representation or warranty.

NOW, THEREFORE, in consideration of the recitals stated above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. Assignor hereby assigns, transfers and conveys without recourse, representation or warranty to Assignee all of Assignor's right, title and interest in, to and arising out of the Loan, the Mortgage and the Loan Documents, without recourse, representation, or warranty.

2. The terms and provisions of this Assignment shall inure to the benefit of, and shall be binding upon, the successors and assigns of the parties hereto.

3. This Assignment shall be construed and enforced according to the laws of the State of Ohio.

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EXHIBIT
tabbies
J

4. Assignor agrees to execute and deliver to Assignee such other documents as may be reasonably necessary in order to effectuate the transaction contemplated hereby.

This Assignment is executed as of the day, month and year first above written.

ASSIGNOR:

GENERAL ELECTRIC CAPITAL CORPORATION,
a Delaware corporation

By: David R Martindale
David R. Martindale, Managing Director

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 12 day of July, 2007, by DAVID R. MARTINDALE, Managing Director of GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation, on behalf of said corporation.

Marsha Chandler
Notary Public, State of Texas
Marsha Chandler
Printed Name of Notary
My Commission Expires: 3/24/09

MARSHA CHANDLER
Notary Public, State of Texas
My Commission Expires
March 24, 2009

Electronically Filed 10/13/2017 12:58 AM CST Dallas County, Texas Clerk No. 20171017 887110 / Confirmation Nbr. 1197472 / CLJML

SCHEDULE 1

ASSIGNOR:

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation, having an address of c/o GEMSA Loan Services, L.P., 1500 City West Blvd., Suite 200, Houston, Texas 77042-2500

ASSIGNEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee for the registered holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1, having an address of 1133 Rankin Street, Suite 100, St. Paul, Minnesota 55116

COPY

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EXHIBIT A

Legal Description

Parcel No. 1 (Columbia Trailer Park)

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

1. Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

2. Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

3. Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

4. Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

5. Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

6. Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

7. Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

8. Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

9. Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

10. Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

11. Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

12. Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

13. Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

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14. Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

15. Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

16. Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

17. Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

18. Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

19. Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

20. Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

21. Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

22. Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

23. Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

24. Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

25. Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

26. Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

27. Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

28. Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

29. Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

30. Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

31. Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

32. Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

33. Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

34. Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

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35. Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

36. Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

37. Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

38. Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

39. Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

40. Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

41. Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

42. Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

43. Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

44. Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

45. Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

46. Thence South 00 deg. 28' 00" East, 144.08 ft. to a point;

47. Thence North 89 deg. 27' 10" East, 231.71 ft. to a point;

48. Thence South 53 deg. 22' 33" West, 217.76 ft. to a point;

49. Thence South 01 deg. 44' 34" East, 145.00 ft. to a point;

50. Thence South 43 deg. 30' 43" West, 56.32 ft. to a point;

51. Thence South 88 deg. 46' 00" West, 105.00 ft. to a point;

52. Thence South 01 deg. 44' 34" East, 387.90 ft. to the point of beginning and containing 212.3636 acres of land, according to a survey by Eric Nelson, Registered Ohio Surveyor No. 7348 on January 17, 2000, be the same more or less, but subject to all legal highways.

Parcel No. 2 (Columbia Shops)
Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

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Beginning in the centerline of Columbia Road, 60 ft. wide, at a point distant North 01 deg. 44' 34" West, 235.00 ft. therefrom from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' 00" West, 340.00 ft. to a point;

Thence South 01 deg. 44' 34" East, 65.00 ft., parallel with said centerline of Columbia Road to a point;

Thence South 88 deg. 46' 00" West, 175.00 ft. to a point;

Thence North 01 deg. 44' 34" West, 215.00 ft., parallel with said centerline of Columbia Road to a point;

Thence North 88 deg. 46' 00" East, 105.00 ft. to a point;

Thence North 43 deg. 30' 43" East, 56.32 ft. to a point;

Thence North 01 deg. 44' 34" West, 145.00 ft. parallel with said centerline of Columbia Road to a point;

Thence North 53 deg. 22' 23" East, 217.76 ft. to a point;

Thence North 89 deg. 27' 10" East, 191.39 ft. to a point in said centerline of Columbia Road;

Thence South 01 deg. 44' 34" East, 458.83 ft. to the place of beginning containing 4.4318 acres of land according to a survey in December 1991 by Giles Nelson, Ohio Surveyor No. 4630, be the same more or less, but subject to all legal highways.

And further known as being Parcel No. 4 in the Subdivision Plat of Trailer Mart, Inc. as shown by the recorded plat in Volume 266 of Maps, Page 64 of Cuyahoga County Records.

Parcel No. 3 (Lift Station Easement)

A Non-exclusive Easement for the purpose of construction, erection, placement, maintenance and alteration of a sanitary sewer lift station and pump station, as established by instrument recorded in Volume 86-7223, Page 17 of Cuyahoga County Records, and assigned in Cuyahoga County Recorders File Number 200106260775, over the following parcel of land, bounded and described as follows:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio, being known as part of Lot 5, Tract 5 in said Olmsted Township, and more definitely described as follows:

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Beginning at the intersection of the centerline of Columbia Road and the line between Olmsted Township Tracts 5 and 7;

Thence South 01 deg. 04' 57" West in the centerline of Columbia Road, a distance of 365.00 ft. to a point;

Thence North 89 deg. 36' 58" West, a distance of 291.00 ft. to a point, said point is the principal place of beginning;

Thence continuing North 89 deg. 36' 58" West, a distance of 15.00 ft. to a point;

Thence South 01 deg. 04' 57" West, a distance of 110.00 ft. to a point;

Thence South 89 deg. 36' 58" East, a distance of 15.00 ft. to a point;

Thence North 01 deg. 04' 57" East, a distance of 110.00 ft. to the principal place of beginning be the same more or less, but subject to all legal highways.

Parcel No. 4 (Parkway Dr. Easement)

A Non-exclusive Easement for ingress and egress, encroachments and utilities appurtenant to Parcel 1, as established by instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records and amended by instrument recorded as Cuyahoga County Auditor's File Number 200106260770 over the following described property:

Situated in the Township Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, distant North 01 deg. 44' 34" West 160.00 ft. from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' West, 515.00 ft. to a point in an Easterly line of parcel 8 described in instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records;

Thence North 01 deg. 44' 34" West, 60 ft. along said Easterly line of Parcel No. 8 to a point;

Thence North 88 deg. 46' East, 515.00 ft. to a point in said center line of Columbia Road;

Thence South 01 deg. 44' 34" East, 60.00 ft. to the place of beginning containing 0.7094 acres of land be the same more or less but subject to all legal highways.

Parcel No. 5 (Easement for carport and asphalt drive)

A Non-exclusive Easement for carport and asphalt drive appurtenant to Parcel 1, as established by

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instrument recorded as Cuyahoga County Recorders File Number 200106260776 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 0' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

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Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

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Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 62.11 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 47.20 ft. to a point;

Thence South 01 deg. 21' 10" East, 90.07 ft. to a point;

Thence South 88 deg. 38' 50" West, 47.20 ft. to a point;

Thence North 01 deg. 21' 10" West, 90.07 ft. to the principal place of beginning and containing 0.0976 acres of land (4,251 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 6 (Easement for asphalt drive)

A Non-exclusive Easement for asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260777 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

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Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

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Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

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Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 246.62 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 35.58 ft. to a point;

Thence South 01 deg. 21' 10" East, 186.17 ft. to a point;

Thence South 88 deg. 38' 50" West, 35.58 ft. to a point;

Thence North 01 deg. 21' 10" West, 186.17 ft. to the principal place of beginning and containing 0.1521 acres of land (6,625 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 7 (Easement for manufactured homes)

A Non-exclusive Easement for manufactured homes appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260778 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 515.00 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

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Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

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Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

Thence South 01 deg. 28' 00" East, 92.46 ft. to the principal point of beginning of the premises herein described;

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Thence South 55 deg. 52' 41" East, 90.75 ft. to a point;

Thence South 89 deg. 27' 10" West, 74.71 ft. to a point;

Thence North 00 deg. 28' 00" West, 51.62 ft. to the principal place of beginning and containing 0.0443 acres of land (1,930 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 8 (Cleveland trailer park)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Rockport Township Section No. 1 and bounded and described as follows:
Beginning on the centerline of Brookpark Road, S.W., (100 ft. wide), at the Southeasterly corner of said Original Rockport Township Section No. 1;

Thence South 89 deg. 03' 00" West, along the centerline of Brookpark Road, S.W., 429.11 ft. to the Southeasterly corner of land conveyed to The S.C.K. Corporation, by deed dated May 12, 1954 and recorded in Volume 8043, Page 722 of Cuyahoga County Records;

Thence North 00 deg. 32' 30" West, along the Easterly line of land so conveyed to The S.C.K. Corporation, 1120.97 ft. to the southerly line of Parcel No. 1 of land conveyed to The New York Central Railroad Co. by deed dated October 17, 1946 and recorded in Volume 6235, Page 526 of Cuyahoga County Records;

Thence South 89 deg. 48' 10" East, along the Southerly line of the first parcel of land so conveyed, 429.13 ft. to the easterly line of said Original Rockport Township Section No. 1;

Thence South 00 deg. 32' 30" East, along the easterly line of said Section No. 1, 1112.38 ft. to the place of beginning, be the same more or less, but subject to all legal highways.

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[redacted]

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

CUYAHOGA COUNTY RECORDER
PATRICK O'MALLEY - 16
ASG 2/25/2008 8:49:30 AM
200802259001

A. NAME & PHONE OF CONTACT AT FILER [optional]
(405) 236-0003

B. SEND ACKNOWLEDGEMENT TO: (Name and Address)
Anderson, McCoy & Orta PC
100 North Broadway
Suite 2600
Oklahoma City, OK 73102
AMO File No: 1149.062

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #
200705039002 recorded 5/3/2007 in Cuyahoga County, OH

1b. ☑ This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement continued for the additional period provided by applicable law.

4. ☑ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This amendment affects ☐ Debtor or ☐ Secured Party of Record. Check only one of those boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6A or 6B; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.

☐ DELETE name: Give record name To be deleted in item 6a or 6b.

☐ ADD name: Complete item in 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME
COLUMBIA PARK EAST MHP LLC, a Delaware limited liability company
70 Old Stonefield Way, Pittsford, New York 14534

OR | 6b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME
U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-C1

OR | 7b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
1133 Rankin Street, Suite 100	St. Paul	MN	55116	USA

7d. TAX ID #: SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				☐ NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box

Describe collateral ☐ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this amendment.

9a. ORGANIZATION'S NAME
GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation
c/o GEMSA Loan Services, L.P., 1500 City West Blvd., Suite 200, Houston, Texas 77042-2300

OR | 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

10. OPTIONAL FILER REFERENCE DATA
1576-0046-000 COLUMBIA/BROOK PARK MHC ROLLUP

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 07/29/98)

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EXHIBIT
tabbies
K

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

11. INITIAL FINANCING STATEMENT FILE # (same as item 1a on Amendment form)

200705039002 recorded 5/3/2007 in Cuyahoga County, OH

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

13. Use this space for additional information

THE ABOVE SPACE IS FOR FILING USE ONLY

Additional Debtor(s):

COLUMBIA FAR WEST, LLC, a Delaware limited liability company
70 Old Stonefield Way, Pittsford, New York 14534

COPY

EXHIBIT A

Legal Description

Parcel No. 1 (Columbia Trailer Park)

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

1. Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

2. Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

3. Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

4. Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

5. Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

6. Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

7. Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

8. Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

9. Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

10. Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

11. Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

12. Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

13. Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

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14. Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

15. Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

16. Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

17. Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

18. Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

19. Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

20. Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

21. Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

22. Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

23. Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

24. Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

25. Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

26. Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

27. Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

28. Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

29. Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

30. Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

31. Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

32. Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

33. Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

34. Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

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35. Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

36. Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

37. Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

38. Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

39. Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

40. Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

41. Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

42. Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

43. Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

44. Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

45. Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

46. Thence South 00 deg. 28' 00" East, 144.08 ft. to a point;

47. Thence North 89 deg. 27' 10" East, 231.71 ft. to a point;

48. Thence South 53 deg. 22' 33" West, 217.76 ft. to a point;

49. Thence South 01 deg. 44' 34" East, 145.00 ft. to a point;

50. Thence South 43 deg. 30' 43" West, 56.32 ft. to a point;

51. Thence South 88 deg. 46' 00" West, 105.00 ft. to a point;

52. Thence South 01 deg. 44' 34" East, 387.90 ft. to the point of beginning and containing 212.3636 acres of land, according to a survey by Eric Nelson, Registered Ohio Surveyor No. 7348 on January 17, 2000, be the same more or less, but subject to all legal highways.

Parcel No. 2 (Columbia Shops)
Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

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Beginning in the centerline of Columbia Road, 60 ft. wide, at a point distant North 01 deg. 44' 34" West, 235.00 ft. therefrom from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' 00" West, 340.00 ft. to a point;

Thence South 01 deg. 44' 34" East, 65.00 ft., parallel with said centerline of Columbia Road to a point;

Thence South 88 deg. 46' 00" West, 175.00 ft. to a point;

Thence North 01 deg. 44' 34" West, 215.00 ft., parallel with said centerline of Columbia Road to a point;

Thence North 88 deg. 46' 00" East, 105.00 ft. to a point;

Thence North 43 deg. 30' 43" East, 56.32 ft. to a point;

Thence North 01 deg. 44' 34" West, 145.00 ft. parallel with said centerline of Columbia Road to a point;

Thence North 53 deg. 22' 23" East, 217.76 ft. to a point;

Thence North 89 deg. 27' 10" East, 191.39 ft. to a point in said centerline of Columbia Road;

Thence South 01 deg. 44' 34" East, 458.83 ft. to the place of beginning containing 4.4318 acres of land according to a survey in December 1991 by Giles Nelson, Ohio Surveyor No. 4630, be the same more or less, but subject to all legal highways.

And further known as being Parcel No. 4 in the Subdivision Plat of Trailer Mart, Inc. as shown by the recorded plat in Volume 266 of Maps, Page 64 of Cuyahoga County Records.

Parcel No. 3 (Lift Station Easement)

A Non-exclusive Easement for the purpose of construction, erection, placement, maintenance and alteration of a sanitary sewer lift station and pump station, as established by instrument recorded in Volume 86-7223, Page 17 of Cuyahoga County Records, and assigned in Cuyahoga County Recorders File Number 200106260775, over the following parcel of land, bounded and described as follows:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio, being known as part of Lot 5, Tract 5 in said Olmsted Township, and more definitely described as follows:

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Beginning at the intersection of the centerline of Columbia Road and the line between Olmsted Township Tracts 5 and 7;

Thence South 01 deg. 04' 57" West in the centerline of Columbia Road, a distance of 365.00 ft. to a point;

Thence North 89 deg. 36' 58" West, a distance of 291.00 ft. to a point, said point is the principal place of beginning;

Thence continuing North 89 deg. 36' 58" West, a distance of 15.00 ft. to a point;

Thence South 01 deg. 04' 57" West, a distance of 110.00 ft. to a point;

Thence South 89 deg. 36' 58" East, a distance of 15.00 ft. to a point;

Thence North 01 deg. 04' 57" East, a distance of 110.00 ft. to the principal place of beginning be the same more or less, but subject to all legal highways.

Parcel No. 4 (Parkway Dr. Easement)

A Non-exclusive Easement for ingress and egress, encroachments and utilities appurtenant to Parcel 1, as established by instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records and amended by instrument recorded as Cuyahoga County Auditor's File Number 200106260770 over the following described property:

Situated in the Township Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, distant North 01 deg. 44' 34" West 160.00 ft. from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' West, 515.00 ft. to a point in an Easterly line of parcel 8 described in instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records;

Thence North 01 deg. 44' 34" West, 60 ft. along said Easterly line of Parcel No. 8 to a point;

Thence North 88 deg. 46' East, 515.00 ft. to a point in said center line of Columbia Road;

Thence South 01 deg. 44' 34" East, 60.00 ft. to the place of beginning containing 0.7094 acres of land be the same more or less but subject to all legal highways.

Parcel No. 5 (Easement for carport and asphalt drive)

A Non-exclusive Easement for carport and asphalt drive appurtenant to Parcel 1, as established by

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instrument recorded as Cuyahoga County Recorders File Number 200106260776 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 0' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

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Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

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Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 62.11 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 47.20 ft. to a point;

Thence South 01 deg. 21' 10" East, 90.07 ft. to a point;

Thence South 88 deg. 38' 50" West, 47.20 ft. to a point;

Thence North 01 deg. 21' 10" West, 90.07 ft. to the principal place of beginning and containing 0.0976 acres of land (4,251 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 6 (Easement for asphalt drive)

A Non-exclusive Easement for asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260777 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

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Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

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Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

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Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 246.62 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 35.58 ft. to a point;

Thence South 01 deg. 21' 10" East, 186.17 ft. to a point;

Thence South 88 deg. 38' 50" West, 35.58 ft. to a point;

Thence North 01 deg. 21' 10" West, 186.17 ft. to the principal place of beginning and containing 0.1521 acres of land (6,625 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 7 (Easement for manufactured homes)

A Non-exclusive Easement for manufactured homes appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Recorders File Number 200106260778 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 515.00 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

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Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

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Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

Thence South 01 deg. 28' 00" East, 92.46 ft. to the principal point of beginning of the premises herein described;

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Thence South 55 deg. 52' 41" East, 90.75 ft. to a point;

Thence South 89 deg. 27' 10" West, 74.71 ft. to a point;

Thence North 00 deg. 28' 00" West, 51.62 ft. to the principal place of beginning and containing 0.0443 acres of land (1,930 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 8 (Cleveland trailer park)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Rockport Township Section No. 1 and bounded and described as follows:
Beginning on the centerline of Brookpark Road, S.W., (100 ft. wide), at the Southeasterly corner of said Original Rockport Township Section No. 1;

Thence South 89 deg. 03' 00" West, along the centerline of Brookpark Road, S.W., 429.11 ft. to the Southeasterly corner of land conveyed to The S.C.K. Corporation, by deed dated May 12, 1954 and recorded in Volume 8043, Page 722 of Cuyahoga County Records;

Thence North 00 deg. 32' 30" West, along the Easterly line of land so conveyed to The S.C.K. Corporation, 1120.97 ft. to the southerly line of Parcel No. 1 of land conveyed to The New York Central Railroad Co. by deed dated October 17, 1946 and recorded in Volume 6235, Page 526 of Cuyahoga County Records;

Thence South 89 deg. 48' 10" East, along the Southerly line of the first parcel of land so conveyed, 429.13 ft. to the easterly line of said Original Rockport Township Section No. 1;

Thence South 00 deg. 32' 30" East, along the easterly line of said Section No. 1, 1112.38 ft. to the place of beginning, be the same more or less, but subject to all legal highways.

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CASE INFORMATION

CV-17-887110 U.S. BANK NATIONAL ASSOCIATION vs. COLUMBIA PARK EAST MHP LLC, ET AL.

Docket Information

Filing Date	Docket Party	Docket Type	Docket Description	View Image
12/17/2018	D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAM'S REPLY IN PARTIAL OPPOSITION TO RECEIVER'S MOTION FOR FEES AND COSTS 12 17 18	
12/14/2018	R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S MOTION FOR FEES AND COSTS	
12/09/2018	D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM REPLY IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE	
12/07/2018	P1	MO	MOTION FILED FOR P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S MOTION TO STRIKE DEFENDANT KENNETH C. BURNHAM'S CROSS-MOTION FOR SANCTIONS OR, ALTERNATIVELY, LIMITED OPPOSITION THERETO	
12/06/2018	R1	OT	GENERAL PLEADING FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S COMBINED RESPONSE TO (1) DEFENDANT BURNHAM'S NOVEMBER 25, 2018 BRIEF IN OPPOSITION TO RECEIVER'S FIFTH EMERGENCY MOTION TO SHOW CAUSE AND CROSS MOTION, AND (2) DEFENDANT COLUMBIA MHC EAST, LLC'S BRIEF IN OPPOSITION TO RECEIVER'S FIFTH EMERGENCY MOTION TO SHOW CAUSE	
12/05/2018	D9	OT	GENERAL PLEADING FILED BY D9 OLMSTED CABLE COMPANY NOTICE OF DISMISSAL BY DEFENDANT OLMSTED CABLE OF CROSS CLAIM AGAINST DEFENDANTS COLUMBIA FAR WEST LLC, COLUMBIA WEST INVESTORS LLC, COLUMBIA PARK EAST MHP LLC, AND COLUMBIA MHC EAST LLC	
11/30/2018	R1	NT	NOTICE FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. NOTICE OF FILING RECEIVER'S REPORT FOR AUGUST 1, 2018 THROUGH OCTOBER 31, 2018	
11/30/2018	R1	MO	MOTION FOR EXTENSION OF TIME RECEIVER'S MOTION FOR EXTENSION OF TIME TO FILE RESPONSE	
11/29/2018	D	BR	BRIEF IN OPPOSITION FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) BRIEF IN OPPOSITION TO RECEIVER'S FIFTH EMERGENCY MOTION TO SHOW CAUSE	
11/25/2018	D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAMS REPLY AND MOTION RE RECEIVERS FIFTH EMERGENCY MOTION	
11/21/2018	R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S FIFTH MOTION TO SHOW CAUSE	
10/30/2018	N/A	JE	RECEIVER M. SHAPIRO REAL ESTATE GROUP LLC.'S MOTION FOR APPROVAL TO PAY OLMSTED CABLE ARREARAGE, FILED 10/19/2018, IS GRANTED. OSJ. NOTICE ISSUED	
10/19/2018	R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S MOTION FOR APPROVAL TO PAY OLMSTED CABLE ARREARAGE 10/30/2018 - GRANTED	
10/01/2018	N/A	JE	PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION TO STRIKE DEFENDANT BURNHAM'S REPLY BRIEF AND OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, FILED 05/25/2018, IS GRANTED. DEFENDANT BURNHAM IS NOT A PROPER PARTY WITH RESPECT TO THE COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC ("MHC EAST"). DEFENDANT BURNHAM'S REPLY BRIEF AND OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT FILED ON 05/20/2018 IS STRIKEN FROM THE RECORD. NOTICE ISSUED	
10/01/2018	N/A	JE	RECEIVER M. SHAPIRO REAL ESTATE GROUP LLC.'S MOTION FOR FEES AND COSTS, FILED 09/07/2018, IS GRANTED. NOTICE ISSUED	
09/07/2018	R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S MOTION	

		FOR FEES AND COSTS 10/01/2018 - GRANTED	
08/31/2018 R1	NT	NOTICE FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. NOTICE OF FILING RECEIVER'S REPORT FOR MAY 1, 2018 THROUGH JULY 31, 2018	
08/30/2018 N/A	JE	RECIEVER M. SHAPIRO REAL ESTATE GROUP LLC.'S RECEIVER'S MOTION FOR FEES AND COSTS, FILED 06/13/2018, IS UNOPPOSED AND GRANTED. NOTICE ISSUED	
07/23/2018 N/A	JE	RECEIVER M. SHAPIRO REAL ESTATE GROUP LLC.'S MOTION FOR APPROVAL OF ASPHALT REPAIRS, FILED 06/13/2018, IS GRANTED. THE ASPHALT REPAIRS FOR THE COLUMBIA PARK AND SHOPPING CENTER PROPERTIES AS SET FORTH IN THE MOTION WITH THE ATTACHED GRIFFITH BID IS APPROVED IN THE AMOUNT OF $170,265.00. NOTICE ISSUED	
07/10/2018 N/A	JE	DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE THEIR BRIEF IN OPPOSITION TO RECEIVER'S FOURTH EMERGENCY MOTION TO SHOW CAUSE, FILED 06/20/2018, IS GRANTED. NOTICE ISSUED	
07/10/2018 D10	BR	REPLY BRIEF FILED BY D10 KENNETH C. BURNHAM DEFENDNAT BURNHAMS REPLY TO RECEIVERS SECOND SUPPLEMENT TO ITS THIRD EMERGENCY MOTION	
07/10/2018 N/A	JE	ORDER AND OPINION HOLDING DEFENDANTS COLUMBIA PARK EAST MHP, LLC, KENNETH BURNHAM, ROBERT C. MORGAN, GEORGE DAGRACA, JAMES A. MARTIN, AND STEVEN J. GORDON IN CONTEMPT OF COURT. O.S.J. NOTICE ISSUED	
07/09/2018 R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. SECOND SUPPLEMENT TO RECEIVER'S APRIL 19, 2018 THIRD EMERGENCY MOTION TO SHOW CAUSE & NOTICE OF FAILURE TO PROVIDE REQUESTED DOCUMENTATION 07/10/2018 - GRANTED	
07/03/2018 D	BR	BRIEF IN OPPOSITION FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) BRIEF IN OPPOSITION TO RECEIVER'S FOURTH EMERGENCY MOTION TO SHOW CAUSE	
06/26/2018 N/A	CS	COURT REPORTER FEE	
06/23/2018 D10	BR	REPLY BRIEF FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAM'S SUPPLEMENTAL REPLY TO RECEIVERS FOURTH EMERGENCY MOTION	
06/20/2018 D	MO	MOTION FOR EXTENSION OF TIME DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE THEIR BRIEF IN OPPOSITION TO RECEIVER'S FOURTH EMERGENCY MOTION TO SHOW CAUSE 07/10/2018 - GRANTED	
06/18/2018 R1	BR	BRIEF IN OPPOSITION FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S MEMORANDUM IN OPPOSITION TO DEFENDANT BURNHAM'S MOTION TO QUASH SUBPOENAS	
06/18/2018 R1	OT	GENERAL PLEADING FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S RESPONSE TO DEFENDANT BURNHAM'S REPLY TO FOURTH MOTION TO SHOW CAUSE	
06/15/2018 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAMS AFFIDAVIT AND BRIEF IN OPPOSITION TO RECEIVERS FOURTH EMERGENCY MOTION	
06/15/2018 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM DEFENDNAT BURNHAMS REPLY AFFIDAVIT AND BRIEF IN OPPOSITION TO PLAINTIFFS MOTION TO STRIKE AND FOR LEAVE	
06/15/2018 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAM MOTION TO QUASH SUBPOENAS AND OTHER RELIEF	
06/14/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT	
06/13/2018 R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. MOTION FOR APPROVAL OF ASPHALT REPAIRS 07/23/2018 - GRANTED	
06/13/2018 R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S MOTION FOR FEES AND COSTS 08/30/2018 - UNOPPOSED AND GRANTED	
06/13/2018 R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S FOURTH MOTION TO SHOW CAUSE	
06/12/2018 N/A	JE	HEARING SET FOR 06/25/2018 AT 10:00 AM. HEARING ON RECEIVER'S COMBINED REPORT TO COURT OF USE OF FUNDS BY DEFENDANTS FOR PURPOSES OTHER THAN MAINTENANCE, MANAGEMENT AND EXPENSES OF RECEIVERSHIP PROPERTY & THIRD EMERGENCY MOTION TO SHOW CAUSE FILED SET IN COURTROOM 20-D. NOTICE ISSUED	

06/05/2018 N/A	JE	SECOND EMERGENCY MOTION TO REMOVE OR REPLACE RECEIVER, FILED 04/02/2018, IS DENIED. KEN BURNHAM, PRO SE, ASKS THE COURT TO MODIFY THE RECEIVERSHIP ORDER WHICH IS CURRENTLY APPEALED TO THE 8TH DISTRICT COURT OF APPEALS. THEREFORE, THIS COURT DOES NOT HAVE JURISDICTION TO REVERSE, MODIFY, OR AFFIRM THE APPEALED JUDGMENT. SEE STATE V. CASTAGNOLA, 8TH DIST. CUYAHOGA NOS, 28621, 28672, AND 28702, 2018-OHIO-1604. NOTICE ISSUED	
06/04/2018 D4	BR	BRIEF IN OPPOSITION FILED BY D4 COLUMBIA MHC EAST LLC DEFENDANT COLUMBIA MHC EAST, LLC'S BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UPON COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC	
06/01/2018 R1	NT	NOTICE FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. NOTICE OF FILING RECEIVERS REPORT FOR MARCH 1, 2018 THROUGH APRIL 30, 2018	
05/30/2018 D10	BR	REPLY BRIEF FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAM'S REPLY TO RECEIVERS SUPPLEMENT TO ITS THIRD EMERGENCY MOTION	
05/25/2018 P1	MO	MOTION FILED FOR P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S MOTION TO STRIKE DEFENDANT BURNHAM'S REPLY BRIEF AND OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT OR, ALTERNATIVELY, LEAVE TO FILE REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT 10/01/2018 - GRANTED	
05/22/2018 N/A	JE	M. SHAPIRO REAL ESTATE GROUP/ RECEIVER'S MOTION FOR EXTENSION OF TIME TO FILE RESPONSE, FILED 04/27/2018, IS GRANTED. THE RESPONSE IS DEEMED TIMELY FILED. NOTICE ISSUED	
05/20/2018 D10	BR	STRICKEN PER JE DATED 10/01/2018 BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM DEFENDANT BURNHAM'S BRIEF AND AFFIDAVIT IN OPPOSITION TO PLAINTIFFS SJ MOTION	
05/18/2018 R1	OT	GENERAL PLEADING FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. SUPPLEMENT TO RECEIVER'S APRIL 19, 2018 THIRD EMERGENCY MOTION TO SHOW CAUSE	
05/03/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UPON COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC AND BRIEF IN SUPPORT THEREOF (PART 4 OF 4)	
05/03/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UPON COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC AND BRIEF IN SUPPORT THEREOF (PART 3 OF 4)	
05/03/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UPON COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC AND BRIEF IN SUPPORT THEREOF (PART 2 OF 4)	
05/03/2018 P1	MO	MOTION FOR SUMMARY JUDGMENT FILED PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UPON COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC AND BRIEF IN SUPPORT THEREOF (PART 1 OF 4)	
05/03/2018 R1	OT	R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECIEVER'S COMBINED RESPONSE TO (1) DEFENDANT KENNETH C. BURNHAM'S REPLY BRIEF IN OPPOSITION TO RECEIVER'S THIRD EMERGENCY MOTION, AND (2) COLUMBIA PARK DEFENDANT'S BREIF IN OPPOSITION TO RECEIVER'S THIRD EMERGENCY MOTION TO SHOW CAUSE FILED (FILED UNDER SEAL)	
04/27/2018 R1	MO	MOTION FOR EXTENSION OF TIME RECEIVER'S MOTION FOR EXTENSION OF TIE TO FILE RESPONSE 05/22/2018 - GRANTED	
04/26/2018 D	BR	BRIEF IN OPPOSITION FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) BRIEF IN OPPOSITION TO RECEIVER'S THIRD EMERGENCY MOTION TO SHOW CAUSE	
04/25/2018 R1	NT	NOTICE FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. FILING RECEIVER'S INVENTORY	
04/20/2018 D10	BR	REPLY BRIEF FILED BY D10 KENNETH C. BURNHAM REPLY TO RECEIVER'S THIRD EMERGENCY MOTION	
04/20/2018 D	NT	NOTICE FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8),	

		ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) NOTICE OF FILING TRANSCRIPT	
04/19/2018 N/A	MO	RECEIVER'S COMBINED REPORT TO COURT OF USE OF FUNDS BY DEFENDANTS FOR PURPOSES OTHER THAN MAINTENANCE, MANAGEMENT AND EXPENSES OF RECEIVERSHIP PROPERTY & THRID EMERGENCY MOTION TO SHOW CAUSE FILED. (FILED UNDER SEAL) 07/10/2018 - GRANTED	
04/19/2018 N/A	CM	CORRESPONDENCE RECEIVED.	
04/17/2018 N/A	JE	RECEIVER'S MOTION TO FILE ITS THIRD EMERGENCY MOTION TO SHOW CAUSE AND REPORT OF DEFENDANTS' USE OF INCOME UNDER SEAL, FILED 04/06/2018, IS GRANTED. THIS ENTRY TAKEN BY JUDGE THOMAS J POKORNY. NOTICE ISSUED	
04/09/2018 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM REPLY IN OPPOSITION TO RECEIVER'S MOTION FOR LEAVE	
04/06/2018 R1	MO	MOTION FILED FOR R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S MOTION TO FILE ITS THIRD EMERGENCY MOTION TO SHOW CAUSE AND REPORT OF DEFENDANTS' USE OF INCOME UNDER SEAL 04/17/2018 - GRANTED	
04/03/2018 R1	OT	GENERAL PLEADING FILED BY R1 M. SHAPIRO REAL ESTATE GROUP LLC. RECEIVER'S COMBINED RESPONSE TO DEFENDANT BURNHAM'S MARCH 26, 2018 MOTION TO REMOVE RECEIVER AND APRIL 2, 2018 SECOND EMERGENCY MOTION TO REMOVE OR REPLACE RECEIVER	
04/02/2018 D10	MO	MOTION FILED FOR D10 KENNETH C. BURNHAM SECOND EMERGENCY MOTION TO REMOVE OR REPLACE RECEIVER 06/05/2018 - DENIED	
03/27/2018 N/A	JE	RECEIVER'S EMERGENCY MOTION TO SHOW CAUSE, FILED 03/15/2018, IS HELD IN ABEYANCE. RECEIVER'S SECOND EMERGENCY MOTION TO SHOW CAUSE, FILED 03/22/2018, IS HELD IN ABEYANCE. NOTICE ISSUED	
03/27/2018 N/A	JE	ATTORNEY CONFERENCE HELD IN ADVANCE OF HEARING ON RECEIVER'S SHOW CAUSE MOTIONS. PARTIES TO SUBMIT AN AGREED JUDGMENT ENTRY IN ACCORDANCE WITH THE DISCUSSIONS WITH THE COURT. NOTICE ISSUED	
03/26/2018 D10	BR	REPLY BRIEF FILED BY D10 KENNETH C. BURNHAM REPLY BRIEF OF DEFENDANT BURNHAM AND EMERGENCY CROSS MOTION TO REMOVE RECEIVER	
03/23/2018 N/A	JE	HEARING SET FOR 03/27/2018 AT 10:30 AM. SHOW CAUSE HEARING ON RECEIVER'S EMERGENCY MOTIONS FOR SHOW CAUSE IS SET FOR 03/27/18 AT 10:30 AM. INTERESTED PARTIES SHALL REPORT TO COURTROOM 20-D. FAILURE TO APPEAR MAY RESULT IS AN EX PARTE CONTEMPT PROCEEDING RESULTING IN A FINDING OF CONTEMPT. NOTICE ISSUED	
03/23/2018 D	BR	BRIEF IN OPPOSITION FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) BRIEF IN OPPOSITION TO RECEIVER'S EMERGENCY MOTION TO SHOW CAUSE	
03/23/2018 N/A	OT	GENERAL PLEADING FILED BY SUPPLEMENT TO RECEIVER'S MARCH 15, 2018 EMERGENCY MOTION TO SHOW CAUSE	
03/22/2018 N/A	MO	MOTION FILED FOR RECEIVER'S SECOND EMERGENCY MOTION TO SHOW CAUSE 03/27/2018 - HELD IN ABEYANCE	
03/20/2018 P1	AN	ANSWER FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS PLAINTIFF'S ANSWER TO COUNTERCLAIMS OF DEFENDANT COLUMBIA MHC EAST, LLC	
03/16/2018 N/A	NT	NOTICE FILED BY NOTICE OF CLARIFIED AFFIDAVIT	
03/16/2018 N/A	CM	CORRESPONDENCE TO THE CLERK OF COURTS RECEIVED.	
03/15/2018 N/A	MO	MOTION FILED FOR JEANNA M. WEAVER 0075186 RECEIVER'S EMERGENCY MOTION TO SHOW CAUSE 03/27/2018 - HELD IN ABEYANCE	
03/08/2018 N/A	NT	NOTICE OF APPEARANCE, FILED JEANNA M. WEAVER 0075186.	
03/07/2018 D	NT	NOTICE OF APPEAL FILED NOTICE OF APPEAL	
03/07/2018 D1	CA	---------- NOTICE OF APPEAL ---------- CA NO. 106910 NOTICE OF APPEAL FILED BY THE DEFT. APPELLANT W/A 9B PRAECIPE AND DOCKETING STATEMENT ON THE ACCELERATED CALENDAR. COPIES MAILED.	
03/06/2018 P1	OT	BOND OF RECEIVER UNDERTAKING BY U.S. BANK NATIONAL ASSOCIATION AS PRINCIPAL IN THE AMOUNT OF $25,000.00 WITH WESTERN SURETY COMPANY AS SURETY.	
03/06/2018 P1	NT	NOTICE FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 NOTICE OF FILING OF RECEIVER'S BOND	

03/05/2018 D1	SF	DEPOSIT AMOUNT PAID JOHN W MONROE	
03/05/2018 D1	AN	ANSWER AND COUNTERCLAIM $75 DEFENDANT COLUMBIA MHC EAST LLC'S FIRST AMENDED ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND COUNTERCLAIMS	
03/02/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 OATH OF RECEIVER	
03/01/2018 N/A	JE	PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR APPOINTMENT OF A RECEIVER IS GRANTED AS AMENDED HEREIN. OSJ. NOTICE ISSUED	
02/28/2018 N/A	JE	MOTION FOR LEAVE TO FILE ANSWER INSTANTER DEFENDANT COLUMBIA MHC EAST LLC'S MOTION FOR LEAVE TO FILE AN AMENDED ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT INSTANTER, FILED 02/02/2018, IS GRANTED. PLAINTIFF MAY FILE THE AMENDED COMPLAINT WITHIN 14 DAYS OF THE DATE OF THIS ORDER. NOTICE ISSUED	
02/28/2018 N/A	JE	PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION TO STRIKE DEFENDANT BURNHAM'S BRIEF, ARGUMENT, AND AFFIDAVIT REGARDING JURISDICTION AND THE REGULATED PUBLIC UTILITY, FILED 01/31/2018, IS GRANTED. NOTICE ISSUED	
02/28/2018 N/A	JE	PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS, FILED 01/25/2018, IS GRANTED. OHIO LAW DOES NOT RECOGNIZE A CLAIM FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING INDEPENDENT OF A BREACH OF CONTRACT CLAIM. THIRD FED. S. & L. ASSN, OF CLEVELAND V. FORMANIK, 2016-OHIO-7478, PARAGRAPH 45 (OHIO APP. 8 DIST., 2016) AT PARAGRAPH 46 CITING STANIK V, DEUTSCHE NAT'L BANK 2015-OHIO-2517. SEE ALSO MTGE. ELECTRONIC REGISTRATION SYS., INC. V. MOSLEY, 2010-OHIO-2886, PARAGRAPH 46. THE COUNTERCLAIMS SET FORTH IN DEFENDANT BURNHAM'S ANSWER AND COUNTERCLAIMS DOCKETED ON 12/21/2017 ARE DISMISSED. NOTICE ISSUED	
02/28/2018 N/A	JE	PLAINTIFF'S MOTION FOR LEAVE TO FILE SUR-REPLY, FILED 12/29/2017, IS DENIED. NOTICE ISSUED	
02/28/2018 N/A	JE	DEFENDANT KENNETH C. BURNHAM'S MOTION FOR DECLARATORY JUDGMENT AND OTHER RELIEF, FILED 12/14/2017, IS DENIED. NOTICE ISSUED	
02/07/2018 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM PRO SE 9999999 OPPOSITION TO MOTION TO DISMISS COUNTERCLAIM OF DEFENDANT BURNHAM	
02/02/2018 D4	MO	MOTION FOR LEAVE TO FILE ANSWER INSTANTER DEFENDANT COLUMBIA MHC EAST LLC'S MOTION FOR LEAVE TO FILE AN AMENDED ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT INSTANTER 02/28/2018 - GRANTED	
02/02/2018 D10	OT	GENERAL PLEADING FILED BY D10 KENNETH C. BURNHAM ATTORNEY PRO SE 9999999 DEFENDANT'S REPORT OF STATUS OF SALE	
02/02/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 PLAINTIFF'S STATUS REPORT IN RESPONSE TO MAGISTRATE'S ORDER	
02/02/2018 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM PRO SE 9999999 DEFENDANT BURNHAM'S REPLY TO PLAINTIFF'S MOTION TO STRIKE	
01/31/2018 P1	MO	MOTION FILED FOR P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS JOHN J RUTTER 0079186 PLAINTIFF'S MOTION TO STRIKE DEFENDANT BURNHAM'S BRIEF, ARGUMENT, AND AFFIDAVIT REGARDING JURISDICTION AND THE REGULATED PUBLIC UTILITY 02/28/2018 - GRANTED	
01/31/2018 D	BR	REPLY BRIEF FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) JOHN W MONROE 0061845 DEFENDANTS COLUMBIA PARK EAST MHP LLC, COLUMBIA MHC EAST LLC, COLUMBIA PARK MANUFACTURED HOME SALES INC., ROBERT C. MORGAN, GEORGE DAGRACA, JAMES A MARTIN & STEVEN J. GORDON'S REPLY BRIEF	
01/25/2018 D10	BR	STRICKEN PER JOURNAL ENTRY- 02/28/2018- BRIEF FILED BY D10 KENNETH C. BURNHAM PRO SE 9999999 DEFENDANT BURNHAM'S BRIEF, ARGUMENT AND AFFIDAVIT REGARDING JURISDICTION	
01/25/2018 P1	MO	MOTION TO DISMISS FILED PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS 02/28/2018 - GRANTED	
01/18/2018 D	AN	ANSWER FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1) and COLUMBIA MHC EAST LLC(D4) ATTORNEY JOHN W MONROE 0061845 DEFENDANTS COLUMBIA PARK EAST MHP LLC AND COLUMBIA MHC EAST LLC'S ANSWER TO DEFENDANT OLMSTED CABLE COMPANY'S CROSS-CLAIM	

01/11/2018 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 PLAINTIFF'S BRIEF IN RESPONSE TO DECEMBER 27, 2017 MAGISTRATE'S DECISION	
01/11/2018 P1	NT	NOTICE FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 NOTICE OF FILING OF JUDICIAL COMMITMENT ENDORSEMENT TO TITLE COMMITMENT NO. 1101-2467765	
01/09/2018 D	AN	ANSWER FILED BY DEFENDANT(S) COLUMBIA FAR WEST, LLC(D2) and COLUMBIA WEST INVESTORS, LLC(D5) ATTORNEY MARK RODIO 0065134 DEFENDANTS COLUMBIA WEST'S AND COLUMBIA INVESTORS' ANSWER TO OLMSTED CABLE CO.'S CROSS-CLAIM	
01/04/2018 N/A	JE	MOTION HEARING HELD BY MAGISTRATE ON 12/12/2017. THE COURT HEARD ARGUMENTS CONCERNING PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER AND THE OPPOSITION THERETO. THE COURT REQUESTS ADDITIONAL BRIEFING ON THE ISSUE OF WHETHER THE TITLE COMMITMENT FILED HEREIN SATISFIES OHIO LAW, SPECIFICALLY, O.R.C. SECTION 2329.191. THE COURT INSTRUCTS THE PARTIES TO ADDRESS WHETHER OR NOT A JUDICIAL ENDORSEMENT IS MANDATORY AND ANY JURISDICTIONAL CONCERNS. PLAINTIFF MAY FILE A BRIEF ON OR BEFORE 01/12/2018. ANY BRIEFS IN OPPOSITION DUE ON OR BEFORE 01/31/2018. PARTIES TO NOTIFY THE COURT WHETHER OR NOT THE POTENTIAL SALE OF THE PROPERTY CLOSED ON OR BEFORE 02/02/2018. NOTICE ISSUED	
01/02/2018 N/A	CM	COMMUNICATION LETTER FROM ANNE RADNEY, FILED...`	
01/02/2018 N/A	CM	COMMUNICATION LETTER FROM ANNE RADNEY, FILED...	
12/29/2017 P1	MO	MOTION FOR EXTENSION OF TIME PLAINTIFF'S MOTION FOR LEAVE TO FILE SUR-REPLY 02/28/2018 - DENIED	
12/28/2017 D1	SF	DEPOSIT AMOUNT PAID PRO SE	
12/28/2017 D1	AN	ANSWER AND COUNTERCLAIM $75 DEFENDANT BURNHAM'S ANSWER AND COUNTERCLAIMS	
12/27/2017 N/A	CM	COMMUNICATION LETTER, FILED	
12/27/2017 N/A	CM	PURCHASE AGREEMENT FOR COLUMBININA MOBILE HOME PARK, FILED, PRO SE	
12/27/2017 N/A	CM	COMMUNICATION LETTER FROM STATE STREET CAPITAL PARTNERS, INC., FILED.	
12/27/2017 N/A	MG	MOTION HEARING HELD BY MAGISTRATE ON 12/12/2017. THE COURT HEARD ARGUMENTS CONCERNING PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER AND THE OPPOSITION THERETO. THE COURT REQUESTS ADDITIONAL BRIEFING ON THE ISSUE OF WHETHER THE TITLE COMMITMENT FILED HEREIN SATISFIES OHIO LAW, SPECIFICALLY, O.R.C. SECTION 2329.191. THE COURT INSTRUCTS THE PARTIES TO ADDRESS WHETHER OR NOT A JUDICIAL ENDORSEMENT IS MANDATORY AND ANY JURISDICTIONAL CONCERNS. PLAINTIFF MAY FILE A BRIEF ON OR BEFORE 01/12/2018. ANY BRIEFS IN OPPOSITION DUE ON OR BEFORE 01/31/2018. PARTIES TO NOTIFY THE COURT WHETHER OR NOT THE POTENTIAL SALE OF THE PROPERTY CLOSED ON OR BEFORE 02/02/2018. NOTICE ISSUED	
12/26/2017 D10	BR	REPLY BRIEF FILED BY D10 KENNETH C. BURNHAM PRO SE 9999999 DEFENDANT BURNHAM'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT	
12/21/2017 D9	OT	GENERAL PLEADING FILED BY D9 OLMSTED CABLE COMPANY ATTORNEY RICHARD A BAUMGART 0002664 EXHIBIT C TO ANSWER AND CROSS-CLAIM OF OLMSTED CABLE COMPANY	
12/21/2017 D9	OT	GENERAL PLEADING FILED BY D9 OLMSTED CABLE COMPANY ATTORNEY RICHARD A BAUMGART 0002664 EXHIBIT B TO ANSWER AND CROSS CLAIM OF OLMSTED CABLE	
12/21/2017 D9	OT	GENERAL PLEADING FILED BY D9 OLMSTED CABLE COMPANY ATTORNEY RICHARD A BAUMGART 0002664 EXHIBIT A TO ANSWER AND CROSS-CLAIM OF OLMSTED CABLE COMPANY	
12/21/2017 D1	SF	DEPOSIT AMOUNT PAID RICHARD A BAUMGART	
12/21/2017 D1	AN	ANSWER AND CROSSCLAIM $75 ANSWER OF OLMSTED CABLE TO AMENDED COMPLAINT AND CROSS-CLAIM	
12/19/2017 P1	BR	BRIEF IN OPPOSITION FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS JOHN J RUTTER 0079186 PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANT KENNETH C. BURNHAM'S MOTION FOR DECLARATORY JUDGMENT AND OTHER RELIEF	
12/15/2017 N/A	OT	CORRESPONDENCE FILED	

12/14/2017 D10	MO	MOTION FILED FOR D10 KENNETH C. BURNHAM PRO SE 9999999 MOTION FOR DECLARATORY JUDGMENT AND OTHER RELIEF 02/28/2018 - DENIED	
12/11/2017 N/A	JE	DEFENDANT BURNHAM'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT OR STAY FURTHER JUDICIAL ACTION, FILED 11/16/2017, IS DENIED. NOTICE ISSUED	
12/11/2017 N/A	JE	MOTION FOR LEAVE TO WITHDRAW AS COUNSEL FOR DEFENDANT KENNETH C. BURNHAM ONLY, FILED 11/27/2017, IS GRANTED. THE CLERK OF COURT IS ORDERED TO REMOVE JOHN W. MONROE, ESQ., BRENDON P. FRIESEN, ESQ. AND KATHRYN E. WEBER, ESQ., OF THE LAW FIRM, MANSOUR GAVIN LPA AS COUNSEL OF RECORD FOR DEFENDANT KENNETH C. BURNHAM ONLY. NOTICE ISSUED	
12/11/2017 D	AN	ANSWER FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) ATTORNEY JOHN W MONROE 0061845 DEFENDANTS COLUMBIA PARK EAST MHP LLC, COLUMBIA MHC EAST LLC, COLUMBIA PARK MANUFACTURED HOME SALES INC., ROBERT C. MORGAN, GEORGE DAGRACA, JAMES A MARTIN & STEVEN J. GORDON'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND CROSS-CLAIM	
11/29/2017 D9	OT	STIPULATION FOR LEAVE TO PLEAD FILED STIPULATION FOR LEAVE TO PLEAD	
11/29/2017 D9	NT	NOTICE OF APPEARANCE, FILED D9 OLMSTED CABLE COMPANY RICHARD A BAUMGART 0002664. NOTICE OF APPEARANCE	
11/29/2017 N/A	MG	MOTION HEARING SET FOR 12/12/2017 AT 10:45 AM. PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER IS SET FOR HEARING BEFORE MAGISTRATE MONICA KLEIN AT COURTHOUSE SQUARE BUILDING, MAGISTRATE'S DEPARTMENT, 310 W. LAKESIDE AVE, 6TH FLOOR, CLEVELAND, OH 44113. FAILURE TO APPEAR MAY RESULT IN DISMISSAL OF AFFIRMATIVE CLAIMS FOR RELIEF. NOTICE ISSUED	
11/29/2017 N/A	SC	MOTION HEARING SCHEDULED FOR 12/07/2017 AT 11:00 AM IS CANCELLED.	
11/28/2017 D	MO	MOTION FILED FOR DEFENDANT(S) COLUMBIA FAR WEST, LLC(D2) and COLUMBIA WEST INVESTORS, LLC(D5) MARK RODIO 0065134 DEFENDANTS COLUMBIA WEST'S AND COLUMBIA INVESTORS' UNOPPOSED MOTION TO RESCHEDULE HEARING ON PLAINTIFF'S MOTION FOR A RECEIVER 11/29/2017 - GRANTED	
11/28/2017 P1	NT	NOTICE FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 NOTICE OF FILING OF CORRECTED LEGAL DESCRIPTION	
11/27/2017 D	MO	MOTION TO WITHDRAW AS COUNSEL MOTION FOR LEAVE TO WITHDRAW AS COUNSEL FOR DEFENDANT KENNETH C. BURNHAM ONLY 12/11/2017 - GRANTED	
11/27/2017 N/A	JE	DEFENDANT COLUMBIA PARK EAST MHP LLC'S MOTION TO DISMISS, FILED 11/10/2017, IS DENIED. NOTICE ISSUED	
11/27/2017 N/A	MG	MOTION HEARING SET FOR 12/07/2017 AT 11:00 AM. PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER IS SEY FOR HEARING BEFORE MAGISTRATE MONICA KLEIN AT COURTHOUSE SQUARE BUILDING, MAGISTRATE'S DEPARTMENT, 310 W. LAKESIDE AVE, 6TH FLOOR, CLEVELAND, OH 44113. FAILURE TO APPEAR MAY RESULT IN DISMISSAL OF AFFIRMATIVE CLAIMS FOR RELIEF. NOTICE ISSUED	
11/24/2017 D10	BR	BRIEF IN OPPOSITION FILED BY D10 KENNETH C. BURNHAM PRO SE 9999999 REPLY BRIEF MOTION TO STRIKE AND IN SUPPORT OF MOTION TO DISMISS OR STAY	
11/21/2017 P1	MO	MOTION FILED FOR P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS JOHN J RUTTER 0079186 PLAINTIFF'S MOTION TO STRIKE DEFENDANT BURNHAM'S MOTION TO DISMISS OR STAY FURTHER JUDICIAL ACTION THEREON AND ALTERNATIVELY, BRIEF IN OPPOSITION THERETO 12/11/2017 - MOOT	
11/20/2017 N/A	OT	COMMUNICATION FILED	
11/17/2017 P1	BR	BRIEF IN OPPOSITION FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS JOHN J RUTTER 0079186 U.S. BANK, AS TRUSTEE'S BRIEF IN OPPOSITION TO MOTION TO CONSOLIDATE ACTIONS	
11/16/2017 D10	MO	MOTION TO DISMISS FILED DEFENDANT BURNHAM'S MOTION TO DISMISS OR STAY 12/11/2017 - DENIED	
11/15/2017 D2	MO	MOTION TO CONSOLIDATE FILED PLAINTIFF'S MOTION TO CONSOLIDATE CASE NO. CV 17-887110 WITH THIS ACTION 04/04/2018 - HELD IN ABEYANCE	
11/14/2017 P1	BR	BRIEF IN OPPOSITION FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS JOHN J RUTTER 0079186 PLAINTIFF'S BRIEF IN OPPOSITION TO MOTION TO DISMISS	
11/13/2017 D5	AN	ANSWER FILED BY D5 COLUMBIA WEST INVESTORS, LLC ATTORNEY MARK RODIO	

		0065134 DEFENDANT COLUMBIA INVESTORS' ANSWER TO PLAINTIFF'S COMPLAINT
11/10/2017 D	MO	MOTION TO DISMISS FILED MOTION TO DISMISS OF DEFENDANTS COLUMBIA PARK EAST MHP LLC, ET AL. 11/27/2017 - DENIED
11/09/2017 D	BR	BRIEF IN OPPOSITION FILED BY DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), KENNETH C. BURNHAM(D10), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) JOHN W MONROE 0061845 BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER AND MEMORANDUM IN SUPPORT WITH SUPPORTING AFFIDAVITS
11/09/2017 N/A	SR	FEDEX RECEIPT NO. 33696478 DELIVERED BY FEDEX 11/08/2017 AAA ELECTRIC SERVICE, INC. PROCESSED BY COC 11/09/2017.
11/07/2017 D2	AN	ANSWER FILED BY D2 COLUMBIA FAR WEST, LLC ATTORNEY MARK RODIO 0065134 DEFENDANT COLUMBIA WEST'S ANSWER TO COMPLAINT
11/06/2017 N/A	MG	DEFENDANT COLUMBIA EAST'S MOTION FOR EXTENSION OF TIME TO FILE REPLY TO PLAINTIFF'S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER, FILED 10/26/2017, IS GRANTED. SAID DEFENDANT MAY FILE A REPLY ON OR BEFORE 11/09/2017. NOTICE ISSUED
11/05/2017 N/A	SR	FX RECEIPT NO. 33546021 RETURNED 10/27/2017 FAILURE OF SERVICE ON PARTY BURNHAM/KENNETH/C. - UNCLAIMED AFTER 8 DAYS
11/05/2017 N/A	SR	FX RECEIPT NO. 33545392 RETURNED 10/27/2017 FAILURE OF SERVICE ON PARTY BURNHAM/KENNETH/C. - UNCLAIMED AFTER 8 DAYS
11/03/2017 N/A	SR	FX RECEIPT NO. 33578311 RETURNED 10/25/2017 FAILURE OF SERVICE ON PARTY AAA ELECTRIC SERVICE, INC. - BAD ADDRESS AFTER 8 DAYS
11/02/2017 N/A	SR	SUMMONS E-FILE COPY COST
11/02/2017 D3	CS	WRIT FEE
11/02/2017 D3	SR	SUMS AMENDED COMPLNT(33696478) SENT BY FEDERAL EXPRESS. TO: AAA ELECTRIC SERVICE, INC. 112 REBECCA LANE BRUNSWICK, OH 44212-0000
11/01/2017 N/A	SR	FX RECEIPT NO. 33545385 RETURNED 10/23/2017 FAILURE OF SERVICE ON PARTY AAA ELECTRIC SERVICE, INC. - BAD ADDRESS AFTER 8 DAYS
10/31/2017 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 OPPOSITION TO COLUMBIA EAST DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE REPLY TO PLAINTIFF'S MOTION FOR IMMEDIATE APPOINTMENT OF RECEIVER
10/27/2017 N/A	SR	FEDEX RECEIPT NO. 33578306 DELIVERED BY FEDEX 10/26/2017 BURNHAM/KENNETH/C. PROCESSED BY COC 10/27/2017.
10/27/2017 N/A	SR	FEDEX RECEIPT NO. 33578302 DELIVERED BY FEDEX 10/26/2017 BURNHAM/KENNETH/C. PROCESSED BY COC 10/27/2017.
10/26/2017 D	MO	MOTION FOR EXTENSION OF TIME COLUMBIA EAST DEFENDANTS¿ MOTION FOR EXTENSION OF TIME TO FILE REPLY TO PLAINTIFF¿S MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER AND MEMORANDUM IN SUPPORT WITH SUPPORTING AFFIDAVITS 11/06/2017 - GRANTED
10/26/2017 D	NT	NOTICE OF APPEARANCE, FILED DEFENDANT(S) COLUMBIA PARK EAST MHP LLC(D1), COLUMBIA MHC EAST LLC(D4), COLUMBIA PARK MANUFACTURED HOME SALES, INC.(D8), KENNETH C. BURNHAM(D10), ROBERT C. MORGAN(D11), GEORGE DAGRACA(D12), JAMES A. MARTIN(D13) and STEVEN J. GORDON(D14) JOHN W MONROE 0061845. NOTICE OF APPEARANCE
10/26/2017 P1	SR	REQUEST FOR SERVICE FILED PRAECIPE FOR SERVICE OF SUMMONS AND FIRST AMENDED COMPLAINT VIA FEDERAL EXPRESS SERVICE UPON DEFENDANT AAA ELECTRIC SERVICE, INC.
10/26/2017 N/A	SR	FEDEX RECEIPT NO. 33578304 DELIVERED BY FEDEX 10/25/2017 GERALD E. BROOKINS MUSEUM OF ELECTRIC RAILWAYS, INC. PROCESSED BY COC 10/26/2017.
10/26/2017 N/A	SR	FEDEX RECEIPT NO. 33578307 DELIVERED BY FEDEX 10/24/2017 OLMSTED CABLE COMPANY PROCESSED BY COC 10/26/2017.
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578313 DELIVERED BY FEDEX 10/24/2017 COLUMBIA PARK EAST MHP LLC PROCESSED BY COC 10/25/2017.
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578312 DELIVERED BY FEDEX 10/24/2017 COLUMBIA FAR WEST, LLC PROCESSED BY COC 10/25/2017.
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578310 DELIVERED BY FEDEX 10/24/2017 COLUMBIA MHC EAST LLC PROCESSED BY COC 10/25/2017.
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578309 DELIVERED BY FEDEX 10/24/2017 COLUMBIA WEST INVESTORS, LLC PROCESSED BY COC 10/25/2017.

10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578308 DELIVERED BY FEDEX 10/24/2017 CLEAR CHANNEL OUTDOOR PROCESSED BY COC 10/25/2017.	
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578305 DELIVERED BY FEDEX 10/24/2017 DAGRACA/GEORGE/ PROCESSED BY COC 10/25/2017.	
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578303 DELIVERED BY FEDEX 10/24/2017 COLUMBIA PARK MANUFACTURED HOME SALES, INC. PROCESSED BY COC 10/25/2017.	
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578301 DELIVERED BY FEDEX 10/24/2017 MORGAN/ROBERT/C. PROCESSED BY COC 10/25/2017.	
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578300 DELIVERED BY FEDEX 10/24/2017 MARTIN/JAMES /A. PROCESSED BY COC 10/25/2017.	
10/25/2017 N/A	SR	FEDEX RECEIPT NO. 33578298 DELIVERED BY FEDEX 10/24/2017 GORDON/STEVEN/J. PROCESSED BY COC 10/25/2017.	
10/24/2017 D15	SR	CLERK ISSUED VIA HAND DELIVERY RETURNED 10/23/2017 - CUYAHOGA COUNTY TREASURER - COMP ON OTHER 10/23/2017 0.00	
10/22/2017 N/A	SR	FEDEX RECEIPT NO. 33545388 DELIVERED BY FEDEX 10/20/2017 GERALD E. BROOKINS MUSEUM OF ELECTRIC RAILWAYS, INC. PROCESSED BY COC 10/22/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545396 DELIVERED BY FEDEX 10/19/2017 GORDON/STEVEN/J. PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545391 DELIVERED BY FEDEX 10/20/2017 OLMSTED CABLE COMPANY PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545390 DELIVERED BY FEDEX 10/20/2017 COLUMBIA PARK MANUFACTURED HOME SALES, INC. PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545389 DELIVERED BY FEDEX 10/20/2017 CLEAR CHANNEL OUTDOOR PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545386 DELIVERED BY FEDEX 10/20/2017 COLUMBIA MHC EAST LLC PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545384 DELIVERED BY FEDEX 10/20/2017 COLUMBIA FAR WEST, LLC PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545383 DELIVERED BY FEDEX 10/20/2017 COLUMBIA PARK EAST MHP LLC PROCESSED BY COC 10/21/2017.	
10/21/2017 N/A	SR	FEDEX RECEIPT NO. 33545387 DELIVERED BY FEDEX 10/20/2017 COLUMBIA WEST INVESTORS, LLC PROCESSED BY COC 10/21/2017.	
10/20/2017 N/A	SR	FEDEX RECEIPT NO. 33545395 DELIVERED BY FEDEX 10/19/2017 MARTIN/JAMES /A. PROCESSED BY COC 10/20/2017.	
10/20/2017 N/A	SR	FEDEX RECEIPT NO. 33545394 DELIVERED BY FEDEX 10/19/2017 DAGRACA/GEORGE/ PROCESSED BY COC 10/20/2017.	
10/20/2017 N/A	SR	FEDEX RECEIPT NO. 33545393 DELIVERED BY FEDEX 10/19/2017 MORGAN/ROBERT/C. PROCESSED BY COC 10/20/2017.	
10/19/2017 D15	SR	SUMS AMENDED COMPLNT(33578299) SENT BY CLERK ISSUED VIA HAND DELIVERY. TO: CUYAHOGA COUNTY TREASURER 2079 EAST 9TH STREET CLEVELAND, OH 44115	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 D1	CS	WRIT FEE	
10/19/2017 D1	SR	SUMS AMENDED COMPLNT(33578313) SENT BY FEDERAL EXPRESS. TO: COLUMBIA PARK EAST MHP LLC 3958-D BROWN PARK DRIVE HILLIARD, OH 43026	
10/19/2017 D2	CS	WRIT FEE	
10/19/2017 D2	SR	SUMS AMENDED COMPLNT(33578312) SENT BY FEDERAL EXPRESS. TO: COLUMBIA FAR WEST, LLC 4400 EASTON COMMONS WAY SUITE 125 COLUMBUS, OH 43219	
10/19/2017 D3	CS	WRIT FEE	
10/19/2017 D3	SR	SUMS AMENDED COMPLNT(33578311) SENT BY FEDERAL EXPRESS. TO: AAA ELECTRIC SERVICE, INC. 14600 DETROIT AVENUE SUITE 1300 LAKEWOOD, OH 44107	
10/19/2017 D4	CS	WRIT FEE	

10/19/2017 D4	SR	SUMS AMENDED COMPLNT(33578310) SENT BY FEDERAL EXPRESS. TO: COLUMBIA MHC EAST LLC 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/19/2017 D5	CS	WRIT FEE	
10/19/2017 D5	SR	SUMS AMENDED COMPLNT(33578309) SENT BY FEDERAL EXPRESS. TO: COLUMBIA WEST INVESTORS, LLC 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/19/2017 D7	CS	WRIT FEE	
10/19/2017 D7	SR	SUMS AMENDED COMPLNT(33578308) SENT BY FEDERAL EXPRESS. TO: CLEAR CHANNEL OUTDOOR 4400 EASTON COMMONS WAY SUITE 125 COLUMBUS, OH 43219	
10/19/2017 D9	CS	WRIT FEE	
10/19/2017 D9	SR	SUMS AMENDED COMPLNT(33578307) SENT BY FEDERAL EXPRESS. TO: OLMSTED CABLE COMPANY 8020 WEDGEWOOD DRIVE CHESTERLAND, OH 44026	
10/19/2017 D10	CS	WRIT FEE	
10/19/2017 D10	SR	SUMS AMENDED COMPLNT(33578306) SENT BY FEDERAL EXPRESS. TO: KENNETH C. BURNHAM MEMBER COLUMBIA MHC EAST, LLC 1080 PITTSFORD-VICTORIA ROAD PITTSFORD, NY 14534-0000	
10/19/2017 D12	CS	WRIT FEE	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 D12	SR	SUMS AMENDED COMPLNT(33578305) SENT BY FEDERAL EXPRESS. TO: GEORGE DAGRACA 82 BARCHAN DUNE RISE VICTOR, NY 14564	
10/19/2017 D6	CS	WRIT FEE	
10/19/2017 D6	SR	SUMS AMENDED COMPLNT(33578304) SENT BY FEDERAL EXPRESS. TO: GERALD E. BROOKINS MUSEUM OF ELECTRIC RAILWAYS, INC. 7100 COLUMBIA ROAD OLMSTED TOWNSHIP, OH 44138	
10/19/2017 D8	CS	WRIT FEE	
10/19/2017 D8	SR	SUMS AMENDED COMPLNT(33578303) SENT BY FEDERAL EXPRESS. TO: COLUMBIA PARK MANUFACTURED HOME SALES, INC. 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/19/2017 D10	CS	WRIT FEE	
10/19/2017 D10	SR	SUMS AMENDED COMPLNT(33578302) SENT BY FEDERAL EXPRESS. TO: KENNETH C. BURNHAM 70 OLD STONEFIELD WAY PITTSFORD, NY 14534	
10/19/2017 D11	CS	WRIT FEE	
10/19/2017 D11	SR	SUMS AMENDED COMPLNT(33578301) SENT BY FEDERAL EXPRESS. TO: ROBERT C. MORGAN 5 VAN VOORHIS ROAD PITTSFORD, NY 14534	
10/19/2017 D13	CS	WRIT FEE	
10/19/2017 D13	SR	SUMS AMENDED COMPLNT(33578300) SENT BY FEDERAL EXPRESS. TO: JAMES A. MARTIN 3 OAKBERRY LANE PITTSFORD, NY 14534	
10/19/2017 D15	CS	WRIT FEE	
10/19/2017 D14	CS	WRIT FEE	
10/19/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/19/2017 D14	SR	SUMS AMENDED COMPLNT(33578298) SENT BY FEDERAL EXPRESS. TO: STEVEN J. GORDON 150 BUCKLAND AVENUE ROCHESTER, NY 14618-0000	
10/19/2017 D15	AN	ANSWER FILED BY D15 CUYAHOGA COUNTY TREASURER ATTORNEY HANNAH F.G. SINGERMAN 0083106 DEFENDANT CUYAHOGA COUNTY TREASURER	
10/19/2017 D15	SR	CLERK ISSUED VIA HAND DELIVERY RETURNED 10/19/2017 - CUYAHOGA COUNTY TREASURER - COMP ON OTHER 10/18/2017 0.00	
10/19/2017 N/A	MG	PURSUANT TO RULE 4(E) PLAINTIFF IS TO PERFECT SERVICE ON ALL DEFENDANTS WITHIN 6 MONTHS OF FILING ITS CLAIM. IF PLAINTIFF HAS FAILED TO PERFECT SERVICE WITHIN 6 MONTHS OF FILING ITS CLAIM, PLAINTIFF HAS 14 DAYS THEREAFTER TO SHOW GOOD CAUSE WHY SERVICE WAS NOT PERFECTED. IF GOOD CAUSE IS NOT SHOWN, THE COURT WILL DISMISS THIS CASE AS TO THOSE DEFENDANTS WHO HAVE NOT BEEN PROPERLY SERVED PURSUANT TO CIVIL RULE 4(E). CONSEQUENTLY, PLAINTIFF WILL HAVE THEN FAILED TO PROPERLY JOIN ALL NECESSARY PARTIES TO THE WITHIN CASE AND THE COURT WILL THUS DISMISS THIS CASE IN ITS ENTIRETY WITHOUT PREJUDICE AT PLAINTIFF'S COSTS FOR FAILURE TO PROSECUTE. NOTICE ISSUED	

10/18/2017 N/A	SR	FEDEX RECEIPT NO. 33492306 DELIVERED BY FEDEX 10/17/2017 OLMSTED CABLE COMPANY PROCESSED BY COC 10/18/2017.	
10/18/2017 N/A	SR	FEDEX RECEIPT NO. 33492300 DELIVERED BY FEDEX 10/17/2017 AAA ELECTRIC SERVICE, INC. PROCESSED BY COC 10/18/2017.	
10/17/2017 P1	OT	GENERAL PLEADING FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 PART 2 OF MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER AND MEMORANDUM IN SUPPORT WITH SUPPORTING AFFIDAVITS (EXPEDITED HEARING REQUESTED)	
10/17/2017 P1	MO	MOTION FILED FOR P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS JOHN J RUTTER 0079186 MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER AND MEMORANDUM IN SUPPORT WITH SUPPORTING AFFIDAVITS (EXPEDITED HEARING REQUESTED) 03/01/2018 - GRANTED	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492312 DELIVERED BY FEDEX 10/16/2017 GORDON/STEVEN/J. PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492311 DELIVERED BY FEDEX 10/16/2017 MARTIN/JAMES /A. PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492305 DELIVERED BY FEDEX 10/16/2017 COLUMBIA PARK MANUFACTURED HOME SALES, INC. PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492304 DELIVERED BY FEDEX 10/16/2017 CLEAR CHANNEL OUTDOOR PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492303 DELIVERED BY FEDEX 10/16/2017 GERALD E. BROOKINS MUSEUM OF ELECTRIC RAILWAYS, INC. PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492301 DELIVERED BY FEDEX 10/16/2017 COLUMBIA MHC EAST LLC PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492299 DELIVERED BY FEDEX 10/16/2017 COLUMBIA FAR WEST, LLC PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492298 DELIVERED BY FEDEX 10/16/2017 COLUMBIA PARK EAST MHP LLC PROCESSED BY COC 10/17/2017.	
10/17/2017 N/A	SR	FEDEX RECEIPT NO. 33492302 DELIVERED BY FEDEX 10/16/2017 COLUMBIA WEST INVESTORS, LLC PROCESSED BY COC 10/17/2017.	
10/16/2017 D15	SR	SUMS COMPLAINT(33546320) SENT BY CLERK ISSUED VIA HAND DELIVERY. TO: CUYAHOGA COUNTY TREASURER 2079 EAST 9TH STREET CLEVELAND, OH 44115	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 D15	CS	WRIT FEE	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 D10	CS	WRIT FEE	
10/16/2017 D10	SR	SUMS COMPLAINT(33546021) SENT BY FEDERAL EXPRESS. TO: KENNETH C. BURNHAM MEMBER COLUMBIA MHC EAST, LLC 1080 PITTSFORD-VICTORIA ROAD PITTSFORD, NY 14534-0000	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 D14	CS	WRIT FEE	
10/16/2017 D14	SR	SUMS COMPLAINT(33545396) SENT BY FEDERAL EXPRESS. TO: STEVEN J. GORDON 9900 SANTA MONICA BLVD. BEVERLY HILLS, CA 90212	
10/16/2017 D13	CS	WRIT FEE	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 D13	SR	SUMS COMPLAINT(33545395) SENT BY FEDERAL EXPRESS. TO: JAMES A. MARTIN 3 OAKBERRY LANE PITTSFORD, NY 14534	
10/16/2017 D12	CS	WRIT FEE	
10/16/2017 D12	SR	SUMS COMPLAINT(33545394) SENT BY FEDERAL EXPRESS. TO: GEORGE DAGRACA 82 BARCHAN DUNE RISE VICTOR, NY 14564	
10/16/2017 D11	CS	WRIT FEE	
10/16/2017 D11	SR	SUMS COMPLAINT(33545393) SENT BY FEDERAL EXPRESS. TO: ROBERT C. MORGAN 5 VAN VOORHIS ROAD PITTSFORD, NY 14534	

10/16/2017 D10	CS	WRIT FEE	
10/16/2017 D10	SR	SUMS COMPLAINT(33545392) SENT BY FEDERAL EXPRESS. TO: KENNETH C. BURNHAM 70 OLD STONEFIELD WAY PITTSFORD, NY 14534	
10/16/2017 D9	CS	WRIT FEE	
10/16/2017 D9	SR	SUMS COMPLAINT(33545391) SENT BY FEDERAL EXPRESS. TO: OLMSTED CABLE COMPANY 8020 WEDGEWOOD DRIVE CHESTERLAND, OH 44026	
10/16/2017 D8	CS	WRIT FEE	
10/16/2017 D8	SR	SUMS COMPLAINT(33545390) SENT BY FEDERAL EXPRESS. TO: COLUMBIA PARK MANUFACTURED HOME SALES, INC. 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/16/2017 D7	CS	WRIT FEE	
10/16/2017 D7	SR	SUMS COMPLAINT(33545389) SENT BY FEDERAL EXPRESS. TO: CLEAR CHANNEL OUTDOOR 4400 EASTON COMMONS WAY SUITE 125 COLUMBUS, OH 43219	
10/16/2017 D6	CS	WRIT FEE	
10/16/2017 D6	SR	SUMS COMPLAINT(33545388) SENT BY FEDERAL EXPRESS. TO: GERALD E. BROOKINS MUSEUM OF ELECTRIC RAILWAYS, INC. 7100 COLUMBIA ROAD OLMSTED TOWNSHIP, OH 44138	
10/16/2017 D5	CS	WRIT FEE	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/16/2017 D5	SR	SUMS COMPLAINT(33545387) SENT BY FEDERAL EXPRESS. TO: COLUMBIA WEST INVESTORS, LLC 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/16/2017 D4	CS	WRIT FEE	
10/16/2017 D4	SR	SUMS COMPLAINT(33545386) SENT BY FEDERAL EXPRESS. TO: COLUMBIA MHC EAST LLC 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/16/2017 D3	CS	WRIT FEE	
10/16/2017 D3	SR	SUMS COMPLAINT(33545385) SENT BY FEDERAL EXPRESS. TO: AAA ELECTRIC SERVICE, INC. 14600 DETROIT AVENUE SUITE 1300 LAKEWOOD, OH 44107	
10/16/2017 D2	CS	WRIT FEE	
10/16/2017 D2	SR	SUMS COMPLAINT(33545384) SENT BY FEDERAL EXPRESS. TO: COLUMBIA FAR WEST, LLC 4400 EASTON COMMONS WAY SUITE 125 COLUMBUS, OH 43219	
10/16/2017 D1	CS	WRIT FEE	
10/16/2017 D1	SR	SUMS COMPLAINT(33545383) SENT BY FEDERAL EXPRESS. TO: COLUMBIA PARK EAST MHP LLC 3958-D BROWN PARK DRIVE HILLIARD, OH 43026	
10/16/2017 D15	SR	CLERK ISSUED VIA HAND DELIVERY RETURNED 10/16/2017 - CUYAHOGA COUNTY TREASURER - COMP ON OTHER 10/12/2017 0.00	
10/14/2017 N/A	SR	FEDEX RECEIPT NO. 33492310 DELIVERED BY FEDEX 10/13/2017 DAGRACA/GEORGE/ PROCESSED BY COC 10/14/2017.	
10/14/2017 N/A	SR	FEDEX RECEIPT NO. 33492309 DELIVERED BY FEDEX 10/13/2017 MORGAN/ROBERT/C. PROCESSED BY COC 10/14/2017.	
10/14/2017 N/A	SR	FEDEX RECEIPT NO. 33492308 DELIVERED BY FEDEX 10/13/2017 BURNHAM/KENNETH/C. PROCESSED BY COC 10/14/2017.	
10/14/2017 N/A	SR	FEDEX RECEIPT NO. 33492307 DELIVERED BY FEDEX 10/13/2017 BURNHAM/KENNETH/C. PROCESSED BY COC 10/14/2017.	
10/13/2017 P1	SR	REQUEST FOR SERVICE FILED PRAECIPE FOR FEDERAL EXPRESS SERVICE OF FIRST AMENDED COMPLAINT	
10/13/2017 P1	SF	DEPOSIT AMOUNT PAID JOHN J RUTTER	
10/13/2017 P1	CO	AMENDED COMPLAINT $75 FIRST AMENDED COMPLAINT FOR JUDGMENT UPON PROMISSORY NOTE AND GUARANTEES, FOR FORECLOSURE OF MORTGAGE, ENFORCEMENT OF ASSIGNMENT OF RENTS, FORECLOSURE OF SECURITY INTERESTS IN PERSONAL PROPERTY, AND FOR APPOINTMENT OF RECEIVER (ADDING NEW PARTY DEFENDANT ONLY)	
10/13/2017 P1	NT	NOTICE FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 NOTICE OF VOLUNTARY DISMISSAL OF ALL CLAIMS AGAINST DEFENDANT STEVEN J. GORDON, 9900 SANTA MONICA BLVD., BEVERLY HILLS, CA 90212	
10/12/2017 D15	SR	SUMS COMPLAINT(33492439) SENT BY CLERK ISSUED VIA HAND DELIVERY. TO: CUYAHOGA COUNTY TREASURER 2079 EAST 9TH STREET CLEVELAND, OH 44115	

10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST
10/10/2017 D15	CS	WRIT FEE
10/10/2017 N/A	JE	ALL NON-MILITARY CLIENT AFFIDAVITS FILED IN RESIDENTIAL MORTGAGE FORECLOSURE CASES MUST INDICATE THAT THE AFFIANT HAS ACTUAL PERSONAL KNOWLEDGE OF THE FILE AND LOAN HISTORY IN QUESTION AND HAS PERSONALLY REVIEWED THE DOCUMENTS, RECORDS, OR OTHER DATA RELIED UPON TO MAKE THE STATEMENTS CONTAINED IN THE AFFIDAVIT. ALL CLIENT EXECUTED MILITARY AFFIDAVITS FILED IN RESIDENTIAL MORTGAGE FORECLOSURE CASES MUST INDICATE THAT THE AFFIANT HAS ACTUAL PERSONAL KNOWLEDGE OF THE APPROPRIATE DEFENDANTS' MILITARY STATUS. FAILURE TO PROVIDE APPROPRIATE AFFIDAVITS MAY RESULT IN MANDATORY PERSONAL ATTENDANCE OF AN AFFIANT FOR A HEARING, THE IMPOSITION OF SANCTIONS AND PENALTIES FOR PERJURY OR CONTEMPT, AND DISMISSAL OF THE CASE. BEFORE JUDGMENT IS ENTERED ON ANY CLAIM FOR FORECLOSURE AND/OR MONEY JUDGMENT IN A RESIDENTIAL MORTGAGE FORECLOSURE CASE, COUNSEL FOR PLAINTIFF AND ANY OTHER PARTY THAT ASSERTS A CLAIM FOR FORECLOSURE OR MONEY JUDGMENT MUST FILE AN AFFIDAVIT OR AFFIDAVITS. IN REGARD TO NON-MILITARY CLIENT AFFIDAVITS, THIS AFFIDAVIT MUST: 1) IDENTIFY THE COUNSEL OF RECORD AND HIS OR HER LAW FIRM. 2) PROVIDE THAT THE COUNSEL OF RECORD HAS REVIEWED THE FILE. 3) PROVIDE THAT THE COUNSEL OF RECORD HAS COMMUNICATED WITH A REPRESENTATIVE OF THE PARTY SEEKING FORECLOSURE AND/OR MONEY JUDGMENT OR ITS SERVICER AND THAT THIS REPRESENTATIVE: HAS AFFIRMED THAT HE OR SHE HAS PERSONALLY REVIEWED THE DOCUMENTS, RECORDS, OR OTHER DATA RELATED TO THE CASE; HAS REVIEWED THE PLEADINGS AND OTHER COURT FILINGS IN THE CASE; AND HAS CONFIRMED BOTH THE FACTUAL ACCURACY OF THE PLEADINGS AND COURT FILINGS AND THE ACCURACY OF THE NOTARIZATIONS CONTAINED THEREIN. 4) PROVIDE THE FULL NAME OF THE REPRESENTATIVE DESCRIBED IN ITEM 3 AND THE DATE OR DATES OF THE COMMUNICATION. 5) CERTIFY THAT, TO THE BEST OF THE COUNSEL OF RECORD'S KNOWLEDGE, THE PLEADINGS AND OTHER COURT FILINGS IN SUPPORT OF THE CLAIMS FOR FORECLOSURE ARE COMPLETE AND ACCURATE IN ALL RELEVANT RESPECTS. 6) ACKNOWLEDGE THAT COUNSEL OF RECORD HAS A CONTINUING OBLIGATION TO AMEND AND SUPPLEMENT THE AFFIDAVIT IN LIGHT OF NEWLY DISCOVERED FACTS FOLLOWING ITS FILING. 7) BE SIGNED AND DATED BY COUNSEL OF RECORD. IN REGARD TO CLIENT EXECUTED MILITARY AFFIDAVITS, THIS AFFIDAVIT MUST: 1) IDENTIFY THE COUNSEL OF RECORD AND HIS OR HER LAW FIRM. 2) PROVIDE THAT THE COUNSEL OF RECORD HAS COMMUNICATED WITH THE AFFIANT OF THE MILITARY AFFIDAVIT AND THAT THE AFFIANT HAS AFFIRMED THAT HE OR SHE HAS PERSONALLY REVIEWED NECESSARY WEBSITE AND/OR DATABASE TO DETERMINE THE MILITARY STATUS OF THE APPROPRIATE DEFENDANTS. 3) PROVIDE THE FULL NAME OF THE AFFIANT DESCRIBED IN ITEM 2 AND THE DATE OR DATES OF THE COMMUNICATION. 4) CERTIFY THAT, TO THE BEST OF THE COUNSEL OF RECORD'S KNOWLEDGE, THE INFORMATION CONTAINED IN THE MILITARY AFFIDAVIT IS ACCURATE IN ALL RELEVANT RESPECTS. 5) ACKNOWLEDGE THAT COUNSEL OF RECORD HAS A CONTINUING OBLIGATION TO AMEND AND SUPPLEMENT THE AFFIDAVIT IN LIGHT OF NEWLY DISCOVERED FACTS FOLLOWING ITS FILING. 6) BE SIGNED AND DATED BY COUNSEL OF RECORD. FAILURE TO SUBMIT AN APPROPRIATE AFFIDAVIT ON OR BEFORE THE DATE OF TRIAL, THE DATE THAT A MOTION FOR SUMMARY JUDGMENT IS RIPE FOR RULING, OR THE DATE OF DEFAULT HEARING, WHICHEVER IS APPLICABLE, WILL RESULT IN DISMISSAL OF THE CASE AND MAY RESULT IN FURTHER SANCTIONS. STANDARDIZED AFFIDAVIT FORMS ARE POSTED ON THE CUYAHOGA COUNTY COURT OF COMMONPLEAS WEBSITE HTTP://CP.CUYAHOGACOUNTY.US/INTERNET/COURTDOCS/MAGISTRATES/AFFIDAVIT (REV5).PDF. ALL AFFIDAVITS SUBMITTED PURSUANT TO THIS ORDER MUST BE IN THE FORMAT OF THESE STANDARDIZED AFFIDAVIT FORMS. IN LIEU OF THIS AFFIDAVIT: 1) IN CASES WHERE CLIENT AFFIDAVITS HAVE BEEN FILED, THE AFFIANT OR AFFIANTS MUST APPEAR AT THE HEARING OF THE MATTER AND TESTIFY REGARDING THOSE AFFIDAVITS. THE REPRESENTATIVE MUST APPEAR IN PERSON AND TELEPHONIC APPEARANCE WILL NOT BE PERMITTED. IF MULTIPLE CLIENT AFFIDAVITS ARE FILED IN THE CASE AND ARE EXECUTED BY MORE THAN ONE AFFIANT, EACH AFFIANT MUST APPEAR AT THE HEARING OF THE MATTER. 2) IN CASES WHERE NO CLIENT AFFIDAVITS HAVE BEEN FILED, AN OFFICER OF THE PARTY SEEKING FORECLOSURE OR AN OFFICER OF ITS SERVICER MUST APPEAR AT THE HEARING OF THE MATTER AND TESTIFY IN SUPPORT OF THE ALLEGATIONS

		OF THE COMPLAINT AND CONTENTS OF OTHER DOCUMENTS OR COURT FILINGS. THE OFFICER MUST APPEAR IN PERSON AND TELEPHONIC APPEARANCE WILL NOT BE PERMITTED. 3) IN CASES WHERE NO HEARING IS SCHEDULED BEFORE THE ENTRY OF JUDGMENT (SUCH AS SOME SUMMARY JUDGMENT CASES), THE OFFICER OF THE PARTY SEEKING FORECLOSURE MUST, CONTEMPORANEOUSLY WITH THE MOTION FOR SUMMARY JUDGMENT, MOVE TO SCHEDULE A HEARING AT WHICH THE AFFIANT MAY APPEAR. 4) WITH THE EXCEPTION OF AFFIANTS OF MILITARY AFFIDAVITS, THE AFFIANT OR AN OFFICER OF THE PARTY SEEKING FORECLOSURE OR OFFICER OF ITS SERVICER WHO APPEARS IN COURT IN LIEU OF THE FILING OF A FORECLOSURE COUNSEL AFFIDAVIT MUST APPEAR WITH THE ORIGINAL PROMISSORY NOTE, INCLUDING ALL ENDORSEMENTS AND ALLONGES AND A CURRENT PAYMENT HISTORY FOR THE MORTGAGE LOAN AT ISSUE. THE AFFIANT OR AN OFFICER OF THE PARTY SEEKING FORECLOSURE OR OFFICER OF ITS SERVICER MUST BE PREPARED TO TESTIFY THAT HE OR SHE HAS PERSONALLY REVIEWED THE DOCUMENTS, RECORDS OR OTHER DATA RELATED TO THE CASE, HAS REVIEWED THE PLEADINGS AND OTHER COURT FILINGS IN THE CASE AND HAS CONFIRMED BOTH THE FACTUAL ACCURACY OF THE FILINGS AND THE ACCURACY OF THE NOTARIZATIONS CONTAINED THEREIN, IF ANY. THE AFFIANT OR AN OFFICER OF THE PARTY SEEKING FORECLOSURE OR OFFICER OF ITS SERVICER MUST BE PREPARED TO RESPOND TO THE QUESTIONING OF THE MAGISTRATE OR JUDGE PRESIDING OVER THE HEARING AND THE QUESTIONING OF ANY OTHER PARTY ATTENDING THE HEARING. 5) IF THE AFFIANT OR OFFICER OF THE PARTY SEEKING FORECLOSURE OR AN OFFICER OF ITS SERVICER HAS BEEN PREVIOUSLY DEPOSED AND HAS TESTIFIED UNDER OATH REGARDING THE ABOVE REQUIRED INFORMATION, THE FILING OF THE TRANSCRIPT OF THAT DEPOSITION WILL SATISFY THE REQUIREMENTS OF THIS POLICY. FAILURE TO FILE AN ATTORNEY AFFIDAVIT OR DO ANY OF THE ALTERNATIVES TO FILING AN ATTORNEY AFFIDAVIT BEFORE THE CASE IS RIPE FOR THE ENTRY OF JUDGMENT WILL RESULT IN DISMISSAL OF THE CASE. NOTICE ISSUED	
10/10/2017 N/A	SF	MAGISTRATE MONICA KLEIN ASSIGNED (MANUALLY)	
10/10/2017 N/A	JE	IT IS ORDERED BY THE COURT THAT THIS CAUSE BE REFERRED TO THE COURT MAGISTRATE TO TRY THE ISSUES OF LAW AND FACT ARISING THEREIN AND REPORT WITHOUT UNNECESSARY DELAY. A PARTY SEEKING A DEFAULT JUDGMENT MUST FILE A MOTION FOR DEFAULT JUDGMENT. ONCE A CASE IS SET FOR DEFAULT JUDGMENT, THE MOTION FOR DEFAULT JUDGMENT MAY BE WITHDRAWN ONLY BY SEPARATE MOTION WITH GOOD CAUSE SHOWN. NOTICE ISSUED	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 D14	CS	WRIT FEE	
10/10/2017 D14	SR	SUMS COMPLAINT(33492312) SENT BY FEDERAL EXPRESS. TO: STEVEN J. GORDON 9900 SANTA MONICA BLVD. BEVERLY HILLS, CA 90212	
10/10/2017 D13	CS	WRIT FEE	
10/10/2017 D13	SR	SUMS COMPLAINT(33492311) SENT BY FEDERAL EXPRESS. TO: JAMES A. MARTIN 3 OAKBERRY LANE PITTSFORD, NY 14534	
10/10/2017 D12	CS	WRIT FEE	
10/10/2017 D12	SR	SUMS COMPLAINT(33492310) SENT BY FEDERAL EXPRESS. TO: GEORGE DAGRACA 82 BARCHAN DUNE RISE VICTOR, NY 14564	
10/10/2017 D11	CS	WRIT FEE	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 D11	SR	SUMS COMPLAINT(33492309) SENT BY FEDERAL EXPRESS. TO: ROBERT C. MORGAN 5 VAN VOORHIS ROAD PITTSFORD, NY 14534	
10/10/2017 D10	CS	WRIT FEE	

10/10/2017 D10	SR	SUMS COMPLAINT(33492308) SENT BY FEDERAL EXPRESS. TO: KENNETH C. BURNHAM MEMBER COLUMBIA MHC EAST, LLC 1080 PITTSFORD-VICTORIA ROAD PITTSFORD, NY 14534-0000	
10/10/2017 D10	CS	WRIT FEE	
10/10/2017 D10	SR	SUMS COMPLAINT(33492307) SENT BY FEDERAL EXPRESS. TO: KENNETH C. BURNHAM 70 OLD STONEFIELD WAY PITTSFORD, NY 14534	
10/10/2017 D9	CS	WRIT FEE	
10/10/2017 D9	SR	SUMS COMPLAINT(33492306) SENT BY FEDERAL EXPRESS. TO: OLMSTED CABLE COMPANY 8020 WEDGEWOOD DRIVE CHESTERLAND, OH 44026	
10/10/2017 D8	CS	WRIT FEE	
10/10/2017 D8	SR	SUMS COMPLAINT(33492305) SENT BY FEDERAL EXPRESS. TO: COLUMBIA PARK MANUFACTURED HOME SALES, INC. 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/10/2017 D7	CS	WRIT FEE	
10/10/2017 D7	SR	SUMS COMPLAINT(33492304) SENT BY FEDERAL EXPRESS. TO: CLEAR CHANNEL OUTDOOR 4400 EASTON COMMONS WAY SUITE 125 COLUMBUS, OH 43219	
10/10/2017 D6	CS	WRIT FEE	
10/10/2017 D6	SR	SUMS COMPLAINT(33492303) SENT BY FEDERAL EXPRESS. TO: GERALD E. BROOKINS MUSEUM OF ELECTRIC RAILWAYS, INC. 7100 COLUMBIA ROAD OLMSTED TOWNSHIP, OH 44138	
10/10/2017 D5	CS	WRIT FEE	
10/10/2017 D5	SR	SUMS COMPLAINT(33492302) SENT BY FEDERAL EXPRESS. TO: COLUMBIA WEST INVESTORS, LLC 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/10/2017 D4	CS	WRIT FEE	
10/10/2017 D4	SR	SUMS COMPLAINT(33492301) SENT BY FEDERAL EXPRESS. TO: COLUMBIA MHC EAST LLC 50 WEST BROAD STREET SUITE 1330 COLUMBUS, OH 43215	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 N/A	SR	SUMMONS E-FILE COPY COST	
10/10/2017 D3	CS	WRIT FEE	
10/10/2017 D3	SR	SUMS COMPLAINT(33492300) SENT BY FEDERAL EXPRESS. TO: AAA ELECTRIC SERVICE, INC. 14600 DETROIT AVENUE SUITE 1300 LAKEWOOD, OH 44107	
10/10/2017 D2	CS	WRIT FEE	
10/10/2017 D2	SR	SUMS COMPLAINT(33492299) SENT BY FEDERAL EXPRESS. TO: COLUMBIA FAR WEST, LLC 4400 EASTON COMMONS WAY SUITE 125 COLUMBUS, OH 43219	
10/10/2017 D1	CS	WRIT FEE	
10/10/2017 D1	SR	SUMS COMPLAINT(33492298) SENT BY FEDERAL EXPRESS. TO: COLUMBIA PARK EAST MHP LLC 3958-D BROWN PARK DRIVE HILLIARD, OH 43026	
10/10/2017 D1	SR	FORECLOSURE MEDIATION. NOTICE GENERATED FOR 33492297 POST CARD COLUMBIA PARK EAST MHP LLC 3958-D BROWN PARK DRIVE HILLIARD, OH 43026	
10/10/2017 P1	NT	NOTICE FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 NOTICE OF FILING OF TITLE COMMITMENT (PART 2)	
10/10/2017 P1	NT	NOTICE FILED BY P1 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR REG. HOLDERS ATTORNEY JOHN J RUTTER 0079186 NOTICE OF FILING OF TITLE COMMITMENT (PART 1)	
10/10/2017 P1	SR	REQUEST FOR SERVICE FILED INSTRUCTIONS FOR SERVICE	
10/10/2017 N/A	SR	FIELD SERVICE REPRESENTATIVE OR OTHER CONTACT: NAME John J. Rutter, Esq. NUMBER 330.849.6713	
10/10/2017 N/A	SF	JUDGE CAROLYN B FRIEDLAND ASSIGNED (RANDOM)	
10/10/2017 P1	SF	ADDITIONAL DEPOSIT FOR SERVICE, OVER 5 DEFENDANTS $30	
10/10/2017 P1	SF	SPECIAL PROJECTS FUND FEE	
10/10/2017 P1	SF	LEGAL RESEARCH	
10/10/2017 P1	SF	LEGAL NEWS	
10/10/2017 P1	SF	LEGAL AID	
10/10/2017 P1	SF	COMPUTER FEE	
10/10/2017 P1	SF	CLERK'S FEE	
10/10/2017 P1	SF	DEPOSIT AMOUNT PAID JOHN J RUTTER	
10/10/2017 P1	SF	DEPOSIT AMOUNT PAID JOHN J RUTTER	
10/09/2017 N/A	SF	CASE FILED: COMPLAINT	

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Website Questions or Comments.
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102698442

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION
Plaintiff

COLUMBIA PARK EAST MHP LLC, ET AL.
Defendant

Case No: CV-17-887110

Judge: CAROLYN B FRIEDLAND

JOURNAL ENTRY

PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR APPOINTMENT OF A RECEIVER IS GRANTED AS AMENDED HEREIN. OSJ.

Judge Signature

Date
CPMCZ

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CLERK OF COURTS
CUYAHOGA COUNTY

02/27/2018

EXHIBIT
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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL PASS-THROUGH CERTIFICATES, SERIES 2007-C1,	:	CASE NO. CV-17-887110
	:	JUDGE CAROLYN B. FRIEDLAND
	:	MAGISTRATE MONICA KLEIN
Plaintiff,	:	
	:	**ORDER APPOINTING RECEIVER**
vs.	:	
COLUMBIA PARK EAST MHP LLC, ET AL.,	:	**(FINAL APPEALABLE ORDER)**
Defendants.	:	

THIS MATTER came to be heard upon the Complaint for Judgment Upon Promissory Note and Personal Guarantees, for Foreclosure of Mortgage, Enforcement of Assignment of Rents, Foreclosure of Security Interests in Personal Property, and for Appointment of Receiver (the "Complaint") of Plaintiff U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1 (the "Plaintiff") and Plaintiff's Motion for Immediate Appointment of Receiver and Memorandum in Support Thereof (the "Motion").

Upon consideration of the pleadings filed in this case, **IT IS HEREBY ORDERED:**

1. Appointment of Receiver.

M. Shapiro Real Estate Group Ohio, LLC, through Kimberly Scott, its Director of Property Management – Manufactured Housing Division (the "Receiver") is hereby

appointed receiver of the Receivership Property (as defined below), effective upon the Receiver posting a bond as required below and filing an oath in the form attached to this Order as **Exhibit B** (the "Effective Date"). The Receiver's duty to act as receiver is subject to the terms of this Order.

1.1 As of the Effective Date, the Receiver is authorized and directed to take immediate possession and full control of the Receivership Property and, subject to the further terms, covenants and conditions of this Order, to take such other actions as the Receiver deems reasonable and appropriate to take possession of, to exercise full control over, to prevent waste, and to preserve, manage, secure, and safeguard the Receivership Property. Upon the Receiver taking possession and full control of the Receivership Property, Defendant property owner Columbia Park East MHP LLC ("Borrower East") and Columbia Far West, LLC ("Borrower West") (collectively, the "Borrower" or "Borrowers") shall have neither possession nor control of, nor any right to, Income (as defined below) derived from the Receivership Property.

1.2 The Receiver shall take possession of and receive from all depositories, banks, brokerages, and otherwise (collectively, "Financial Institutions"), any money on deposit in all such Financial Institutions belonging to or arising from the operation of the Receivership Property, whether or not such funds are held in accounts titled in the name of said entities. The Court hereby directs all Financial Institutions to deliver such deposits to the Receiver and such records as the Receiver may reasonably request with respect to such accounts. The Receiver may indemnify, at no expense or liability to Borrowers or any Exculpated Parties (as defined below), the Financial Institution upon which such demand is made, and is empowered to open or close any such accounts.

1.3 The Borrowers are ordered to make available to the Receiver and/or its agents at the Receivership Property the following items for purposes of transitioning the management of the Receivership Property to the Receiver, to the extent said items are in the Borrowers' or its agents' or representatives' reasonable possession and control (Borrowers shall request its agents and representatives to cooperate) and not already in Plaintiff's possession and control and/or publicly available:

a. All keys.

b. Year-end 2016 operating statements, and year-to-date 2017 operating statements.

c. All on-site employee payroll records and employee files and applications (to the extent not Confidential Information, as defined below).

d. An inventory of all equipment, furniture, vehicles, and supplies.

e. Original titles for any community-owned manufactured homes;

f. Copies of any and all titles for any manufactured homes owned by Borrower that do not constitute Receivership Property;

g. Any and all reports pertaining to the Receivership Property including, but not limited to, environmental assessments, physical condition reports, and any information pertaining to pending or deferred maintenance or capital improvements;

h. All non-Confidential Information of Borrower about customers, tenants, current orders, and accounts receivable.

i. All existing service contracts.

j. All pending bids for contractor work.

k. All insurance policies on the Receivership Property and the terms thereof.

l. Information regarding all insurance claims affecting the Receivership Property that have been submitted in the past three (3) years.

m. Site plans, specifications, floor plans, drawings, measurements, etc.

n. Documents identifying and summarizing all pending litigation (excluding this action) affecting the Receivership Property.

o. All non-Confidential Information of Borrowers relating to the Receivership Property set forth in documents, books, records, computer files, computer equipment, software, management files,

equipment, furniture, supplies, and all passwords needed to access all such software and computer files.

p. All documents reflecting payables and vendor information.

q. All information concerning real estate taxes and personal property taxes.

r. A list of all utilities and utility accounts.

s. All leases including all communication/correspondence files.

t. Documents pertaining to all pending new leases/renewals.

u. A current rent roll showing the name of each tenant, and for each tenant, the space occupied, the lease commencement and expiration date, the rents payable, the aged accounts receivables, the rent paid to date, the security deposit being held for said tenant, and a comparative sales report, each in reasonable detail.

v. Tenant contact names and telephone numbers.

w. The occupant ledgers.

x. All security deposits, security deposit accounts, and an accounting for all security deposits.

y. All cash on hand including, without limitation, (i) petty cash, (ii) tenant/lessee security deposits, (iii) deposits held in escrow for any purpose, such as for payment of real estate taxes and insurance premiums, (iv) proceeds of insurance maintained for or pertaining to the Receivership Property, (v) rents or prepaid rents, (vi) reserves or other funds designated or intended for capital improvements, repairs, replacements, or renovations to, or in connection with, the Receivership Property, (vii) all other sums of any kind relating to or owed for the use, enjoyment, possession, improvement, maintenance, repair or occupancy of all or a portion of the Receivership Property.

z. A current aged accounts receivable/delinquency report.

aa. An aged listing of all trade payables and other payables.

bb. A list of all historical operating expenses for the Property.

cc. A current balance sheet.

dd. A current statement of income and expenses.

ee. A statement of cash flows.

ff. A cash flow forecast addressing the remaining calendar year.

gg. A budget vs. actual variance report.

hh. A leasing activity report.

ii. A capital expenditures report.

jj. Copies of bank statements with monthly reconciliations.

kk. Such other non-Confidential Information (and non-proprietary) records of Borrowers pertaining to the management of the Receivership Property as may reasonably be requested by the Receiver.

The foregoing items are to be made available to the Receiver with the understanding and agreement that (i) the foregoing are made available without representation, warranty or recourse or liability whatsoever (and on a completely "as is" basis), (ii) Borrowers and their agents and representatives may retain copies of any of the foregoing, and (iii) the foregoing may be subject to any consent required from third parties.

1.4 The Borrowers are under a continuing obligation to make available to the Receiver and to turn over all items listed in Section 1.3 after the Effective Date subject to the limitations and qualifications set forth in Section 1.3 hereof.

1.5 The Borrowers and their employees, officers, members, or directors are prohibited from removing any material personal property belonging to the Borrowers from the Receivership Property, or diverting any Income which is collateral for Plaintiff's loan.

1.6 The Borrowers, at no cost or expense to Borrowers or any of the Exculpated Parties (as defined in Section 14.12 herein), shall request that the Receiver and Plaintiff be added as additional insureds and Plaintiff as the loss payee on all insurance in effect on the Effective Date relating to the operation and management of the Receivership Property including, but not limited to, fire, extended coverage, auto and van coverage, property damage, liability, fidelity, errors and omissions, and workers compensation, and modifying the policies if deemed appropriate by the Receiver. The Borrower and its employees, agents, and representatives are prohibited from canceling, reducing, or

modifying any and all insurance coverage in existence with respect to the Receivership Property so long as the costs, fees and premiums are being paid.

2. Receiver's Duties and Authority.

2.1 Subject to the limitations and qualifications set forth in this Order, the Receiver shall be vested with and shall discharge the following authority, powers, and duties (at no cost, expense or liability whatsoever to Borrowers or any of the Exculpated Parties):

a. To maintain, secure, manage, operate, repair, and preserve the Receivership Property in such condition as may be deemed advisable by the Receiver in its reasonable discretion.

b. To change any and all locks to the Receivership Property and limit access to some or all of the Receivership Property as the Receiver deems appropriate.

c. To assume control over the Receivership Property and to collect and receive all Income.

d. To make routine repairs and incidental alterations to the Receivership Property, as may be necessary, including, but not limited to, electrical, plumbing, carpentry, masonry, and any other routine repairs or incidental alterations as may be required in the course of the ordinary maintenance and repair of the Receivership Property.

e. To take such action as deemed appropriate in the Receiver's discretion to comply with any orders or notices of violation affecting the Receivership Property issued by any federal, state, county, or municipal authority having jurisdiction thereof.

f. To prepare and maintain complete books, records, and financial reports of the Receivership Property in a form acceptable to the Court, including maintaining the following:

g. To allow the Plaintiff and its counsel, the Receiver and its counsel, appraisers, and other independent third-party consultants engaged by the Plaintiff and/or Receiver access to the Receivership Property at all reasonable times to inspect the Receivership Property and all books and records, and to cooperate with such parties and independent third-party consultants to evaluate the Receivership Property.

h. To review existing worker's compensation, disability, general liability, and "all risks" hazard insurance and to retain, modify, or

purchase such insurance, and name the Plaintiff and the Receiver as additional insureds, as the Receiver deems appropriate for the preservation and protection of the Receivership Property.

i. To open and maintain a separate account with a federally insured banking institution or savings association with offices in this State from which the Receiver shall disburse all authorized payments as provided in this Order. The Receiver may use the Borrowers' tax identification numbers to maintain existing bank accounts. The Receiver may use the Borrowers' tax identification numbers to open new bank accounts subject to the Borrowers' prior written consent. All funds received by the Receiver pertaining to the Receivership Property shall be held in trust in said account, and shall not be co-mingled with other funds collected by the Receiver for its own account or as an agent for others, until disbursed as provided by this Order.

j. To receive and endorse checks pertaining to the Receivership Property either in the Receiver's name or in the Borrowers' names.

k. To pay all appropriate real estate taxes, personal property taxes, and any other taxes or assessments against the Receivership Property, if the Receiver deems appropriate in its discretion. The Receiver shall not be liable for any commercial activity tax owed by the Borrowers related to the Receivership Property.

l. To prepare and file any tax returns and reports necessary to the operation of the Receivership Property (but not Borrowers or their affiliates) as may be required by law. The Receiver shall not be responsible for the preparation and filing of (and shall not prepare or file) any tax returns or reports for the Borrowers or their affiliates, (including income, personal property, commercial activity, gross receipts, sales and use, or other tax returns) but shall provide to the Borrowers information in the Receiver's possession that Borrowers deem reasonably necessary and appropriate for the Borrowers or their affiliates to prepare and file their returns and reports. The Borrowers shall provide to the Receiver any information needed to file any tax returns for the Receivership Property.

m. To operate the Receivership Property under any existing name or trade name (or a new name, if the Receiver deems it appropriate to do so).

n. To determine as soon as reasonably possible and report to the Court whether any Income previously received by the Borrowers has been used for purposes other than for the maintenance, management, and expenses of the Receivership Property or debt service of Plaintiff's loan.

o. To open and review mail addressed to the Borrowers pertaining to the Receivership Property. The Receiver may also take exclusive possession and control, by demand to the U.S. Postal Service in the name of the Receivership, of any postal boxes that are or were being used by the Borrowers for the receipt of rent or other mail pertaining to the Receivership Property.

p. To seek assistance of law enforcement officials as necessary to preserve the peace and protect the Receivership Property.

q. To employ attorneys, accountants, agents, and other professionals as the Receiver may from time to time deem appropriate and on such terms and conditions as the Receiver deems appropriate. The Receiver shall make application for Court approval to retain attorneys or other professionals as may be required by the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas.

r. To initiate, prosecute, defend, compromise, adjust, intervene in, or become party to such actions or proceedings in state or federal court as the Receiver may, in its opinion and discretion, be necessary or proper for the protection, maintenance and preservation of the Receivership Property or carrying out the terms of this Order.

s. To execute, cancel, or modify lease agreements or extensions of leases.

t. To reject any leases or unexpired contracts of the Borrowers that the Receiver deems to be burdensome on the Receivership Property.

u. To enforce any valid covenant of any existing lease.

3. **Receiver's Authority Subject to Approval.**

3.1 In carrying out the duties contained in this Order, the Receiver is authorized upon and subject to Approval (as defined in Section 12 herein), but is not required:

a. To execute, cancel, modify, renegotiate, or abrogate all service, maintenance, or other contracts in excess of $5,000 relating to the operation of the Receivership Property and with respect to Major Capital Expenditures (as defined in Section 12 herein). All such contracts are to be terminated upon a sale or disposition of the Receivership Property or termination of the Receivership.

b. To engage, on a competitive bid basis, contractors and skilled trades for purposes of (i) maintaining operations of the Receivership Property, and to execute such contracts if the aggregate amount will exceed $5,000, and (ii) carrying out Major Capital Expenditures;

however, no Approval shall be required for a life-threatening or other health or safety emergency.

c. To contest, protest, or appeal any ad valorem tax or assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Receivership Property. Any refund or reimbursement of taxes, whether paid by the Receiver or the Borrower, shall be deemed "Income" to be applied as provided herein.

d. To take any and all actions not specifically enumerated in Section 2.1 of this Order that are, in the Receiver's reasonable judgment, necessary to properly and adequately manage, control, operate, maintain, and protect the Receivership Property.

4. [Intentionally Blank].

5. Listing or Leasing Agent for Receivership Property.

5.1 The Receiver and the Receivership Property shall not be bound by any existing listing or leasing agency agreement affecting the Receivership Property in favor of the Borrower. The Borrower is enjoined from retaining a listing or leasing agent for the Receivership Property or from otherwise interfering with the Receiver's retention of a listing or leasing agent for the Receivership Property which is subject of an Approval. The Receiver is specifically authorized to retain a qualified third party leasing agent for the Receivership Property under terms reasonable acceptable to the Receiver and approved by the Plaintiff and for which adequate assurance is made for payment of such leasing agent.

6. Extent of Receiver's Authority.

6.1 Although the Receiver shall have possession and control of the Receivership Property, the Receiver shall not take title to the Receivership Property. Title to the Receivership Property shall remain in the name of Borrower (other than Income and other Receivership Property distributed to the Plaintiff as provided in this Order), unless foreclosed upon by the Plaintiff, in which case title to the Receivership Property will remain in the name of the Borrower until the delivery of the Sheriff's Deed.

6.2 Without limiting or expanding the foregoing, the Receiver is authorized to exercise only such actions as set forth in this Order, in all cases subject to all the duties of a receiver under the laws of the State of Ohio that may be incidental to the management of the Receivership Property as described in this Order. The Receiver shall not have any additional powers provided by law, except to the extent that the Court upon notice to Borrower may from time to time direct or confer.

6.3 The Receiver shall, during the pendency of this action, have the right to apply to this Court for further instructions or directions.

6.4 The authority granted to the Receiver is self-executing, unless the action requires Approval. Subject to the terms, covenants and conditions set forth in this Order, the Receiver is authorized to act on behalf of, and in Borrower's name (or the Receiver's name), as the Receiver deems appropriate without further order of this Court and without personal recourse against the Receiver (subject to the General Provisions).

6.5 The Receiver is authorized to accept advances from the Plaintiff for operating expenses, working capital, or improvements. All advances to the Receiver by the Plaintiff for the benefit of the Receivership Property, including any advances for working capital or improvements, and any other costs and expenses incurred by the Receiver under this Order, shall be deemed protective future advances under the Borrowers' mortgage and security agreements with the Plaintiff. Any such protective future advances shall be fully secured by the Plaintiff's priority liens and security interests against the Receivership Property. Without derogating from the foregoing, any and all funds advanced by the Plaintiff to the Receiver pursuant to this Order shall: (a) be deemed made pursuant to contract; (b) be added to the amount of the indebtedness owing to the Plaintiff; (c) be

deemed secured by the liens and security interests in favor of the Plaintiff on the Receivership Property to the same extent and with same priority as the other indebtedness secured by all existing liens and security interests in favor of the Plaintiff; and (d) accrue interest at the highest rate chargeable under the existing loan between the Borrowers and Plaintiff. All such funds advanced, including interest on advances, shall be deemed a prior lien entitled to payment before the repayment of any and all other claims against the Receivership Property (except for taxes and assessments having first priority as a matter of law). The Receiver is authorized to issue receivership certificate(s) to secure any such protective future advances by the Plaintiff, but subject to Approval. Nothing in this section shall be construed to require the Plaintiff to advance or loan funds to the Receiver for any reason.

7. **Receivership Property and Income.**

7.1 "Receivership Property" means and includes the following (to the extent the same constitute collateral under Plaintiff's loan and excluding any property (real, personal or other) owned by parties other than Borrowers):

a. The Mortgaged Property, as described in the attached **Exhibit A**.

b. All tangible and intangible personal property located at the Mortgaged Property.

c. All Income.

d. All permits, licenses, leases, other contracts, and other intangible property pertaining to the operation of the Mortgaged Property.

e. All trade names, trademarks, and intellectual property owned or used by the Borrower pertaining to the operation of the Mortgaged Property, subject to any required third party consent.

f. Any refund or reimbursement of taxes, whether for taxes paid by the Receiver or the Borrowers, and whether pertaining to any tax period before or after the entry of this order, and the right to institute or continue any contest, protest, or appeal of any ad valorem tax or

assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Mortgaged Property.

g. Any fixtures, trade fixtures, and tenant improvements or every kind or nature located in or upon or attached to, or used or intended to be used in connection with the operation of the Mortgaged Property and any buildings, structures or improvements located on the Mortgaged Property (to the full extent of the Borrowers' interests in such).

h. All permits, licenses, other contracts, and other intangible property pertaining to the Mortgaged Property and the operations of the Mortgaged Property.

i. All other property, estate, right, title, and interest as described in the Mortgage, Assignment of Rents, Note, and other loan documents.

j. All non-Confidential Information of Borrowers in books, records, accounts, and documents that in any way relate to the Receivership Property or Income.

7.2 The term "Income" means, collectively, all of Borrowers' cash, cash on hand, checks, cash equivalents, credit card receipts, demand deposit accounts, bank accounts, cash management or other financial accounts, bank or other deposits, and all other cash collateral (all whether now existing or later arising); Borrowers' current and past-due earnings, revenues, issues and profits, accounts, and accounts receivable (all whether unpaid, accrued, due, or to become due); all of Borrowers' claims to issues, profits, income, cash collateral, and all other gross income derived from the business operations of the Borrowers related to the Receivership Property, regardless of whether earned before or after entry of this Order.

7.3 Income shall be applied as follows (but subject to the lien rights granted to the Plaintiff):

a. to the Receiver's approved fees and expenses set forth in **Exhibit C** attached hereto;

b. to the current receivership period operating expenses including, but not limited to, any employee payroll expenses, payments due to tenants, brokers, contractors, subcontractors and materialmen, any real estate taxes, and any other taxes arising from normal business operations incurred during the Receivership. The Receiver shall not

make disbursements of more than $5,000 toward receivership period operating expenses without Approval except for life-threatening or other health or safety issues or except as required under the terms of any Leases, brokerage agreements, contractor agreements or other agreements approved or deemed approved by Plaintiff;

c. to the repayment of any receivership certificate securing any protective advances made by the Plaintiff to the Receiver;

d. to the balance due to the Plaintiff until paid in full; and

e. any surplus to be held pending further order of the Court.

7.4 The Receiver may make interim distributions of Income to Plaintiff after payment of current operating expenses provided above in Section 7.3, if the Receiver's "cash on hand" exceeds $50,000 and if it otherwise deems appropriate in its discretion.

8. Property Management Company.

8.1 The Receiver and the Receivership Property shall not be bound by any existing property management agreement affecting the Receivership Property. The Borrowers are enjoined from retaining a management firm for the Receivership Property or from otherwise interfering with the Receiver's retention of a management firm for the Receivership Property. The Receiver is specifically authorized to retain a qualified third party management agent for the Receivership Property under the compensation terms in the attached **Exhibit C**.

9. [Intentionally Blank].

10. Receiver Compensation, Reports, Accounting, And Bond.

10.1 The Receiver shall file an inventory of all Receivership Property in its possession within sixty (60) days of the date of this Order.

10.2 The Receiver shall be compensated as set forth in **Exhibit C**. The Receiver shall make application for payment to the Receiver and any professionals retained by the Receiver.

10.3 The Receiver's applications for compensation (including for compensation of its attorneys and authorized agents) ("Application for Compensation") shall be made only upon prior notice to creditors and other parties of record. Such Applications for Compensation shall include an itemized statement setting forth the compensation requested by the Receiver for the services rendered and costs incurred by it as receiver during the preceding three (3) months, reflecting the dates of service, time spent, and the nature of the services rendered and costs incurred. Unless any party entitled to receive said Application for Compensation as provided in Section 10.8 of this Order files with the Court an objection thereto, and serves copy of same on the Receiver and all other parties, within fourteen (14) days following service of the Application for Compensation, such Application for Compensation shall be approved, subject to the Court's review and approval of the Receiver's final accounting.

10.4 The Receiver's compensation and expense reimbursements shall be paid: (1) first from the Income from the Receivership Property, and (2) next, by the Plaintiff as a protective advance, but only to the extent that the Income is insufficient to pay the Receiver's compensation and expense reimbursements. The Receiver shall be permitted to deduct its fees and expenses directly from the Receivership Property Income or other proceeds of the Receivership Property. The Receiver is authorized to issue receivership certificate(s) to secure any protective advances made by the Plaintiff to pay the Receiver's compensation and expense reimbursements, but subject to Approval.

10.5 Nothing in this Order shall require the Receiver to advance funds other than from Income without a bond or security for payment satisfactory to the Receiver. The Receiver shall not advance funds other than from Income without Approval.

10.6 Within three (3) months of the date of this Order, and at regular intervals every three (3) months thereafter until discharged or at such other times as the Court may direct, the Receiver shall prepare and file a Receiver's Report (including a detailed accounting report and other appropriate information relative to the administration of the receivership and as required by law) pertaining to the operations of the Receivership Property, including at least the following information:

a. A balance sheet.

b. A statement of income and expenses

c. A statement of cash flows.

d. A cash flow forecast addressing the remaining calendar year.

e. A budget vs. actual variance report.

f. A detailed rent roll showing the name of each tenant, and for each tenant, the space occupied, the lease beginning and expiration date, the rent payable, the aged accounts receivable, the rent paid to date, the security deposit being held for said tenant, and a comparative sales report (with per square foot sales), each in reasonable detail.

g. A leasing activity report.

h. An aged payables report.

i. An aged receivables report.

j. A capital expenditures report.

k. Bank statements with monthly reconciliations.

10.7 The Receiver shall also prepare and file any other reports that may be required by the Court.

10.8 The Applications for Compensation and Receiver's Reports, which may be combined as a single filing, shall be filed with the Clerk of the Court and served upon the parties as provided in Ohio Civ. R. 5.

10.9 The Receiver shall furnish the Applications for Compensation and Receiver's Reports to all counsel of record and all parties not in default by electronic mail.

10.10 The Receiver shall post a surety bond from an insurance company licensed to do business in this State in an amount not less than $25,000.00. The cost of the bond is an expense of the Receivership.

11. Confidentiality.

11.1 "Confidential Information" means any non-public information.

11.2 The parties to this action, their counsel, and all those in active concert or participation with them, who receive actual notice of this Order, or otherwise, shall keep all Confidential Information provided by the Receiver confidential, and all such persons are prohibited from disclosing any Confidential Information to anyone other than the parties to this action and their counsel without specific order of this Court.

12. Approval.

12.1 With the exceptions set forth in Section 12.2, whenever this Order uses the term "subject to Approval" or "Approval," the Approval shall not be deemed given except by a specific "Order of Approval" from this Court; or (2) the consent of the Plaintiff or its counsel given in writing.

12.2 Notwithstanding the forgoing, and with respect to any non-budgeted capital expenditures in excess of $10,000, or group of related non-budgeted capital expenditures exceeding $10,000 in the aggregate (collectively, "Major Capital Expenditures"), the Receiver must obtain (1) an Order of Approval from this Court and (2) the consent of Plaintiff or its counsel given in writing. Plaintiff and its counsel shall not have the right to provide such any Approval contemplated in this Section 12 if (i) the Court is otherwise required to provide such Approval under this Order, (ii) such approval requires the Borrower (or the Receiver on behalf of the Borrower) to incur any monetary obligation, or (iii) further statutory approval is required.

13. **Term and Final Accounting.**

13.1 This Receivership shall continue until further order of the Court.

13.2 The Receiver can be removed only in the Court's equitable discretion upon a motion for cause. If the Receiver is removed, the Court may appoint a successor receiver.

13.3 Immediately upon termination of the Receivership, the Receiver shall turn over all of the Receivership Property as ordered by the Court.

13.4 Neither the termination of the Receivership nor the Receiver's removal will discharge the Receiver or the Receiver's bond, which shall be accomplished via separate Court order(s).

13.5 The Receiver shall submit a final accounting (with copies to the recipients of Receiver's Reports as identified above) for approval by the Court within thirty (30) days after the termination of the Receivership or the Receiver's removal.

13.6 Only after the Court approves the Receiver's final accounting may the Receiver be discharged and the Receiver's bond will be cancelled.

14. **General Provisions.**

14.1 The Receiver is only the receiver of the Receivership Property (as defined above), and not of any other assets, activities, business, or operations of the Borrower. The Receiver's responsibilities, duties, and liabilities are expressly limited to those stated in this Order as the same are related to the Receivership Property.

14.2 No person or entity shall file suit against the Receiver, its employees, agents, or its attorneys, or take other action against the Receiver or the Receiver's bond, without first obtaining an order of this Court permitting the suit or action upon motion;

provided, however, that no prior court order is required to file a motion in this action to enforce the provisions of this Order or any other order of this Court in this action.

14.3 The Receiver and its employees, agents, and attorneys shall have no personal liability in connection with any liabilities, obligations, liens, citations, code violations, or amounts owed to any of the Borrowers' creditors, taxing authorities, or bodies politic because of its duties as Receiver. Nothing in this Order shall grant any rights to trade creditors or general unsecured creditors, whose rights shall be solely determined in accordance with Ohio law.

14.4 [Intentionally Blank].

14.5 All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, agents, employees, and all other persons, firms, and corporations, hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against the Receivership Property, the books, records, revenues, profits, and related assets associated with the Receivership Property, or against the Receiver in any Court. These parties are further stayed from executing or issuing or causing the execution or issuance out of any Court of any writ, process, summons, attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon any of the Receivership Property or the books, records, revenues, profits and related assets associated with the Receivership Property, or upon the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of its duties in this proceeding or within the exclusive jurisdiction of this Court

over the Receivership Property and the books, records, revenues, profits and related assets associated with the Receivership Property.

14.6 The Receiver and its employees, agents, and attorneys shall have no personal liability and they shall have no claim asserted against them or the Receiver's bond relating to the Receiver's duties under this Order regarding any action taken or not taken by, except for failure to use ordinary care in administering the Receivership Property, exceeding the authority granted by the Court, or otherwise breaching the Receiver's fiduciary duties as a custodian of the Receivership Property. The Receiver, by use of the Receivership Property only, may hold harmless, and defend the Receiver, its employees, agents, and attorneys from and against any and all liabilities, costs, and expenses actually incurred, including, but not limited to, the cost of any bond required by this Order and reasonable legal and other fees and expenses incurred by them arising from or in any way connected to the performance of the Receiver's duties (but excluding consequential, punitive and/or special damages).

14.7 The Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order, and all those having claims against the Receivership Property who receive notice of this Order, are enjoined from and shall not:

a. **Commit Waste.** Commit or permit any intentional physical waste of all or any part of the Receivership Property, or suffer or commit or permit any act on all or any part of the Receivership Property in violation of law, or remove, transfer, encumber, or otherwise dispose of any of the Receivership Property.

b. **Collect Income.** Demand, collect, receive, discount, or in any other way divert or use any of the Income.

c. **Terminate any Utility Service.** Terminate or withhold any electric, gas, water, sewer, telephone, or other utility service supplying the

Receivership Property, require any utility deposit, or otherwise interfere with the continued operations of the Receivership Property.

d. **Interfere with the Receiver.** Directly or indirectly intentionally, in bad faith, interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management, marketing, or sale of the Receivership Property.

e. **Transfer or Encumber the Receivership Property.** Intentionally, in bad faith, expend, disburse, transfer, assign, sell, convey, devise, pledge, mortgage, create a security interest in, encumber, conceal, or in any manner whatsoever deal in or dispose of the whole or any part of the Receivership Property including, but not limited to, the Income, without prior court order.

f. **Impair the Preservation of the Receivership Property.** Intentionally, in bad faith do any act that will, or that will tend to, impair, defeat, divert, prevent, or prejudice the preservation of the Receivership Property, including the Income, or the preservation of the Plaintiffs' interest in the Receivership Property and the Income.

14.8 The Receiver shall faithfully perform and discharge the Receiver's duties and obey the orders of this Court.

14.9 The Receiver is subject to the personal jurisdiction of the Court.

14.10 This Order and its terms shall be considered compliant with the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas and this Order shall take precedence in the event of a conflict between them.

14.11 The Receiver shall be bound by each and every term contained in this Order and each and every obligation of the Receiver imposed by this Order.

14.12 Notwithstanding anything contained in the loan documents governing Plaintiff's loan or this Order and any Approval, neither Borrowers nor any principal, director, officer, director, employee, advisor, beneficiary thereof, nor any direct or indirect shareholder, partner, manager, member, trustee, agent, or affiliate of the foregoing (nor any principal, director, officer, employee, advisor or beneficiary of any direct or indirect shareholder, partner, manager, member, trustee, agent, of any of the foregoing), or

any legal representatives, successors or assigns of any of the foregoing (all of the foregoing being referred to collectively and individually as the case may be, the "Exculpated Parties") shall have any personal liability for, nor be joined as a party to any action with respect to: (a) the payment of any amount of money which is or may be payable under this Order or any Approval; or (b) the performance or discharge of any covenants, obligations or undertakings of Borrower or its affiliates under this Order or any Approval.

15. Amendment of Order.

15.1 This Order may be amended for cause after a motion or hearing.

16. No Prejudice to Foreclosure/Final Order.

16.1 This Order shall not prejudice the Plaintiff's foreclosure of any mortgage lien or security interest, or any action by the Plaintiff under any loan documents, or any of the Plaintiff's other claims as set forth in its Complaint or any amendments thereto.

17. Final Appealable Order.

17.1 This is a final appealable order and there is no just cause for delay in its entry.

18. Service of Order.

18.1 Pursuant to Civ. R. 58(B), the Clerk shall serve notice of the entry of this Order Appointing Receiver.

IT IS SO ORDERED

JUDGE CAROLYN B. FRIEDLAND

SUBMITTED BY:

/s/ John J. Rutter

John J. Rutter – 0079816
ROETZEL & ANDRESS, LPA
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Akron, OH 44308
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E-mail: jrutter@ralaw.com
ATTORNEY FOR PLAINTIFF

EXHIBIT A

1101-2467765

LEGAL DESCRIPTION

Real property in the Township of Olmsted, County of Cuyahoga, State of Ohio, and is described as follows:

PARCEL 1 (COLUMBIA TRAILER PARK):

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING "LOT 1" OF PLAT OF LOT SPLIT FOR TRAILER MART INC. AS RECORDED IN VOLUME 304, PAGE 47 OF CUYAHOGA COUNTY MAP RECORDS, OF PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 514.99 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

1. THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

2. THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

3. THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

4. THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

5. THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

6. THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

7. THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

8. THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

9. THENCE SOUTH 89 DEG. 06' 30" WEST 120.00 FEET TO A CORNER;

10. THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

11. THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

12. THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

13. THENCE SOUTH 89 DEG. 06' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

14. THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

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15. THENCE SOUTH 89 DEG 09' 46" WEST, 184.83 FEET TO A POINT;

16. THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

17. THENCE NORTH 88 DEG. 29' 10' WEST, 500.32 FEET TO A POINT;

18. THENCE NORTH 00 DEG. 37' 00" WEST 17.19 FEET TO A POINT;

19. THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

20. THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

21. THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

22. THENCE NORTH 01 DEG. 42. 50" WEST, 285.91 FEET TO A POINT;

23. THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

24. THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

25. THENCE SOUTH 89 DEG. 32' 11" WEST, 320.00 FEET TO A POINT;

26. THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD, 60 FEET WIDE;

27. THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

28. THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

29. THENCE NORTH 87 DEG. 30' 25" WEST, 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

30. THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

31. THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

32. THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

33. THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

34. THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

35. THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, 60 FEET WIDE;

36. THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

37. THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

38. THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

39. THENCE SOUTH 89 DEG. 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID

CENTERLINE OF FITCH ROAD;

40. THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

41. THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

42. THENCE SOUTH 01 DEG. 20' 20" EAST, 545.77 FEET TO A POINT;

43. THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

44. THENCE SOUTH 01 DEG. 21' 10" EAST 666.99 FEET TO A POINT;

45. THENCE NORTH 89 DEG. 32' 00" EAST, 2601.90 FEET TO A POINT;

46. THENCE SOUTH 00 DEG. 28' 00" EAST, 144.08 FEET TO A POINT;

47. THENCE NORTH 89 DEG. 27' 10' EAST, 231.71 FEET TO A POINT;

48. THENCE SOUTH 53 DEG. 22' 33" WEST 217.76 FEET TO A POINT;

49. THENCE SOUTH 01 DEG. 44' 34" EAST, 145.00 FEET TO A POINT;

50. THENCE SOUTH 43 DEG. 30' 43" WEST, 56.32 FEET TO A POINT;

51. THENCE SOUTH 88 DEG. 46' 00" WEST, 105.00 FEET TO A POINT;

52. THENCE SOUTH 01 DEG. 44' 34" EAST, 387.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 212.3636 ACRES OF LAND, ACCORDING TO A SURVEY BY ERIC NELSON, REGISTERED OHIO SURVEYOR NO. 7348 ON JANUARY 17, 2000, BE THE SAME MORE OR LESS.

PARCEL 2 (COLUMBIA SHOPS);

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP TRACT NO. 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING IN THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE, AT A POINT DISTANT NORTH 01 DEG. 44' 34" WEST, 235.00 FEET THEREFROM FROM ITS POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF SAID TRACT NO. 7;

THENCE SOUTH 88 DEG. 46' 00" WEST, 340.00 FEET TO A POINT;

THENCE SOUTH 01 DEG. 44' 34" EAST, 65.00 FEET, PARALLEL WITH SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 46' 00" WEST, 175.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 44' 34" WEST, 215.00 FEET PARALLEL WITH SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE NORTH 88 DEG. 46' 00" EAST, 105.00 FEET TO A POINT;

THENCE NORTH 43 DEG. 30' 43" EAST, 56.32 FEET TO A POINT;

THENCE NORTH 01 DEG. 44' 34" WEST, 145.00 FEET PARALLEL WITH SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE NORTH 53 DEG. 22' 23" EAST, 217.76 FEET TO A POINT;

THENCE NORTH 89 DEG. 27' 10" EAST, 191.39 FEET TO A POINT IN SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 01 DEG. 44' 34" EAST, 458.83 FEET TO THE PLACE OF BEGINNING CONTAINING 4.4318 ACRES OF LAND ACCORDING TO A SURVEY IN DECEMBER 1991 BY GILES NELSON, OHIO SURVEYOR NO. 4630, BE THE SAME MORE OR LESS.

AND FURTHER KNOWN AS BEING PARCEL NO. 4 IN THE SUBDIVISION PLAT OF TRAILER MART, INC. AS SHOWN BY THE RECORDED PLAT IN VOLUME 266 OF MAPS, PAGE 64 OF CUYAHOGA COUNTY RECORDS.

PARCEL 3 (LIFT STATION EASEMENT):

A NON-EXCLUSIVE EASEMENT FOR THE PURPOSE OF CONSTRUCTION, ERECTION, PLACEMENT, MAINTENANCE AND ALTERATION OF A SANITARY SEWER LIFT STATION AND PUMP STATION, AS ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 86-7223, PAGE 17 OF CUYAHOGA COUNTY RECORDS, AND ASSIGNED IN CUYAHOGA COUNTY RECORDERS FILE NUMBER 200106260775, OVER THE FOLLOWING PARCEL OF LAND, BOUNDED AND DESCRIBED AS FOLLOWS:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO, BEING KNOWN AS PART OF LOT 5, TRACT 5 IN SAID OLMSTED TOWNSHIP, AND MORE DEFINITELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF COLUMBIA ROAD AND THE LINE BETWEEN OLMSTED TOWNSHIP TRACTS 5 AND 7;

THENCE SOUTH 01 DEG. 04' 57" WEST IN THE CENTERLINE OF COLUMBIA ROAD, A DISTANCE OF 365.00 FEET TO A POINT;

THENCE NORTH 89 DEG. 36' 58" WEST, A DISTANCE OF 291.00 FEET TO A POINT, SAID POINT IS THE PRINCIPAL PLACE OF BEGINNING;

THENCE CONTINUING NORTH 89 DEG. 36' 58" WEST, A DISTANCE OF 15.00 FEET TO A POINT;

THENCE SOUTH 01 DEG. 04' 57" WEST, A DISTANCE OF 110.00 FEET TO A POINT;

THENCE SOUTH 89 DEG. 36' 58" EAST, A DISTANCE OF 15.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 04' 57" EAST, A DISTANCE OF 110.00 FEET TO THE PRINCIPAL PLACE OF BEGINNING BE THE SAME MORE OR LESS.

PARCEL 4 (PARKWAY DRIVE EASEMENT);

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS, ENCROACHMENTS AND UTILITIES APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 92-5575, PAGE 44 OF CUYAHOGA COUNTY RECORDS AND AMENDED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY AUDITOR'S FILE NUMBER 200106260770 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP TRACT NO. 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE, DISTANT NORTH 01 DEG. 44' 34" WEST 160.00 FEET FROM ITS POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF SAID TRACT NO. 7;

THENCE SOUTH 88 DEG. 46' WEST, 515.00 TO A POINT IN AN EASTERLY LINE OF PARCEL 8 DESCRIBED IN INSTRUMENT RECORDED IN VOLUME 92-5575, PAGE 44 OF CUYAHOGA COUNTY RECORDS;

THENCE NORTH 01 DEG. 44' 34" WEST, 60 FEET ALONG SAID EASTERLY LINE OF PARCEL NO. 8 TO A POINT;

THENCE NORTH 88 DEG. 46' EAST, 515.00 FEET TO A POINT IN SAID CENTER LINE OF COLUMBIA ROAD;

THENCE SOUTH 01 DEG. 44' 34" EAST, 60.00 FEET TO THE PLACE OF BEGINNING CONTAINING 0.7094 ACRES OF LAND BE THE SAME MORE OR LESS.

PARCEL 5 (EASEMENT FOR CARPORT AND ASPHALT DRIVE):

A NON-EXCLUSIVE EASEMENT FOR CARPORT AND ASPHALT DRIVE APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY RECORDER'S FILE NUMBER 200106260776 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 514.99 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

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THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 120.00 FEET TO A CORNER;

THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 0' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

THENCE SOUTH 89 DEG. 09' 46" WEST, 184.83 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 29' 10" WEST, 500.30 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 17.19 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 42' 50" WEST, 285.91 FEET TO A POINT;

THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST 320.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD (60 FEET WIDE);

THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

THENCE NORTH 87 DEG. 30' 25" WEST 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

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THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, (60 FEET WIDE);

THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID CENTERLINE OF FITCH ROAD;

THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

THENCE SOUTH 01 DEG. 20' 20' EAST, 545.77 FEET TO A POINT;

THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 62.11 FEET TO THE PRINCIPAL POINT OF BEGINNING OF THE PREMISES HEREIN DESCRIBED;

THENCE NORTH 88 DEG. 38' 50" EAST, 47.20 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 90.07 FEET TO A POINT;

THENCE SOUTH 88 DEG. 38' 50" WEST, 47.20 FEET TO A POINT;

THENCE NORTH 01 DEG. 21' 10" WEST, 90.07 FEET TO THE PRINCIPAL PLACE OF BEGINNING AND CONTAINING 0.0976 ACRES OF LAND (4251 SQUARE FEET) AS CALCULATED AND DESCRIBED BY THE NORTH COAST ENGINEERING AND SURVEYING CO., INC., IN JUNE, 2001, BE THE SAME MORE OR LESS.

PARCEL 6 (EASEMENT FOR ASPHALT DRIVE)

A NON-EXCLUSIVE EASEMENT FOR ASPHALT DRIVE APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY RECORDER'S FILE NUMBER 200106260777 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND

KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 514.99 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 120.00 FEET TO A CORNER;

THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

THENCE SOUTH 89 DEG. 09' 46" WEST, 184.83 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 29' 10" WEST, 500.30 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 17.19 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 42' 50" WEST, 285.91 FEET TO A POINT;

THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 320.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD (60 FEET WIDE);

THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

THENCE NORTH 87 DEG. 30' 25" WEST, 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, (60 FEET WIDE);

THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID CENTERLINE OF FITCH ROAD;

THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

THENCE SOUTH 01 DEG. 20' 20" EAST, 545.77 FEET TO A POINT;

THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 246.62 FEET TO THE PRINCIPAL POINT OF BEGINNING OF THE PREMISES HEREIN DESCRIBED;

THENCE NORTH 88 DEG. 38' 50" EAST, 35.58 FEET TO A POINT;

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THENCE SOUTH 01 DEG. 21' 10" EAST, 186.17 FEET TO A POINT;

THENCE SOUTH 88 DEG. 38' 50" WEST, 35.58 FEET TO A POINT;

THENCE NORTH 01 DEG. 21' 10" WEST, 186.17 FEET TO THE PRINCIPAL PLACE OF BEGINNING AND CONTAINING 0.1521 ACRES OF LAND (6625 SQUARE FEET) AS CALCULATED AND DESCRIBED BY THE NORTH COAST ENGINEERING AND SURVEYING CO., INC., IN JUNE, 2001, BE THE SAME MORE OR LESS.

PARCEL 7 (EASEMENT FOR MANUFACTURED HOMES):

A NON-EXCLUSIVE EASEMENT FOR MANUFACTURED HOMES APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY RECORDERS FILE NUMBER 200106260778 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING "LOT 1" OF PLAT OF LOT SPLIT FOR TRAILER MART INC. AS RECORDED IN VOLUME 304, PAGE 47 OF CUYAHOGA COUNTY MAP RECORDS, OF PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 515.0 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 120.00 FEET TO A CORNER;

THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE

OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

THENCE SOUTH 89 DEG. 09' 46" WEST, 184.83 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 29' 10" WEST, 500.00 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 17.19 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 42' 50" WEST, 285.91 FEET TO A POINT;

THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 320.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD, 60 FEET WIDE;

THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

THENCE NORTH 87 DEG. 30' 25" WEST, 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, 60 FEET WIDE;

THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

THENCE SOUTH 89 DE.G 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID CENTERLINE OF FITCH ROAD;

THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

THENCE SOUTH 01 DEG. 20' 20" EAST, 545.77 FEET TO A POINT;

THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 666.99 FEET TO A POINT;

THENCE NORTH 89 DEG. 32' 00" EAST, 2601.90 FEET TO A POINT;

THENCE SOUTH 01 DEG. 28' 00" EAST, 92.46 FEET TO THE PRINCIPAL POINT OF BEGINNING OF THE PREMISES HEREIN DESCRIBED;

THENCE SOUTH 55 DEG. 52' 41" EAST, 90.75 FEET TO A POINT;

THENCE SOUTH 89 DEG. 27' 10" WEST, 74.71 FEET TO A POINT;

THENCE NORTH 00 DEG. 28' 00" WEST, 51.62 FEET TO THE PRINCIPAL PLACE OF BEGINNING AND CONTAINING 0.0443 ACRES OF LAND (1930 SQUARE FEET) AS CALCULATED AND DESCRIBED BY THE NORTH COAST ENGINEERING AND SURVEYING CO., INC., IN JUNE, 2001, BE THE SAME MORE OR LESS.

PARCEL 8 (CLEVELAND TRAILER PARK):

SITUATED IN THE CITY OF CLEVELAND, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL ROCKPORT TOWNSHIP SECTION NO. 1 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE CENTERLINE OF BROOKPARK ROAD, S.W., (100 FEET WIDE), AT THE SOUTHEASTERLY CORNER OF SAID ORIGINAL ROCKPORT TOWNSHIP SECTION NO. 1;

THENCE SOUTH 89 DEG. 03' 00" WEST, ALONG THE CENTERLINE OF BROOKPARK ROAD, S.W., 429.11 FEET TO THE SOUTHEASTERLY CORNER OF LAND CONVEYED TO THE S.C.K. CORPORATION, BY DEED DATED MAY 12, 1954 AND RECORDED IN VOLUME 8043, PAGE 722 OF CUYAHOGA COUNTY RECORDS;

THENCE NORTH 00 DEG. 32' 30" WEST, ALONG THE EASTERLY LINE OF LAND SO CONVEYED TO THE S.C.K. CORPORATION, 1120.97 FEET TO THE SOUTHERLY LINE OF PARCEL NO. 1 OF LAND CONVEYED TO THE NEW YORK CENTRAL RAILROAD CO. BY DEED DATED OCTOBER 17, 1946 AND RECORDED IN VOLUME 6235, PAGE 526 OF CUYAHOGA COUNTY RECORDS;

THENCE SOUTH 89 DEG. 48' 10" EAST, ALONG THE SOUTHERLY LINE OF THE FIRST PARCEL OF LAND SO CONVEYED, 429.13 FEET TO THE EASTERLY LINE OF SAID ORIGINAL ROCKPORT

TOWNSHIP SECTION NO. 1;

THENCE SOUTH 00 DEG. 32' 30" EAST, ALONG THE EASTERLY LINE OF SAID SECTION NO. 1, 1112.38 FEET TO THE PLACE OF BEGINNING, BE THE SAME MORE OR LESS.

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EXHIBIT B
(Oath of Receiver)

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-C1,	:	CASE NO.
	:	JUDGE
	:	MAGISTRATE
Plaintiff,	:	
vs.	:	**OATH OF RECEIVER**
COLUMBIA PARK EAST MHP LLC, ET AL.,	:	
Defendants.	:	

The undersigned, being first duly sworn upon its oath, hereby states that she will faithfully and honestly discharge the duties of Receiver in the above-captioned action to the best of her abilities and will obey the orders of this Court.

The undersigned further acknowledges:

(1) That she will act in conformity with Ohio law and the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas;

(2) That she will deposit all funds coming into her hands into a separate trust account for the receivership estate, with full contemporaneous record-keeping for all funds;

(3) That she will avoid any conflict of interest;

(4) That she will not directly or indirectly pay or accept anything of value that has not been fully and timely disclosed and formally approved by this Court;

(5) That she will not directly or indirectly purchase, acquire, or accept any interest in the property managed, appraised, or sold through the receivership; and

(6) That she will otherwise act in the best interests of the estate.

M. SHAPIRO REAL ESTATE GROUP OHIO, LLC

_____
Kimberly Scott
Director of Property Management
Manufactured Housing Division

STATE OF_____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kimberly Scott, Director of Property Management, Manufactured Housing Division of M. Shapiro Real Estate Group Ohio, LLC, who acknowledged her execution of the foregoing Oath of Receiver on behalf of said limited liability company.

Signed and sealed this ____ day of _____, 2017.

_____
Notary Public

My Commission Expires:

_____

_____
Printed

County of Residence:

EXHIBIT C
(Compensation Schedule)

Receiver Fee:	
Monthly Fee	The monthly fee is the amount equal to 5% of gross revenues collected per month
Initial Set-up Fee	The Initial Set-up Fee is a one-time only fee equal to 50% of Monthly Fee collected for Month 1
On-Site Presence of Sr. Management	No additional fee
Leasing Fees:	
Renewals and Extensions	No additional fee
Construction Management	No additional fee
Out of Scope Work (*e.g.* preparation of reports, court appearances, etc…)	No additional fee
Travel Expenses	No additional fee
Disposition Fee	The Disposition Fee is a one-time fee equal to 50% of Monthly Fee for the Month in which Receivership Property is disposed/terminated.

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-C1,	:	CASE NO. CV-17-887110
	:	JUDGE CAROLYN FRIEDLAND
	:	MAGISTRATE MONICA KLEIN
Plaintiff,	:	
vs.	:	**OATH OF RECEIVER**
COLUMBIA PARK EAST MHP LLC, ET AL.,	:	
Defendants.	:	

The undersigned, being first duly sworn upon its oath, hereby states that she will faithfully and honestly discharge the duties of Receiver in the above-captioned action to the best of her abilities and will obey the orders of this Court.

The undersigned further acknowledges:

(1) That she will act in conformity with Ohio law and the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas;

(2) That she will deposit all funds coming into her hands into a separate trust account for the receivership estate, with full contemporaneous record-keeping for all funds;

(3) That she will avoid any conflict of interest;

(4) That she will not directly or indirectly pay or accept anything of value that has not been fully and timely disclosed and formally approved by this Court;

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EXHIBIT
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(5) That she will not directly or indirectly purchase, acquire, or accept any interest in the property managed, appraised, or sold through the receivership; and

(6) That she will otherwise act in the best interests of the estate.

M. SHAPIRO REAL ESTATE GROUP OHIO, LLC

Kimberly Scott
Director of Property Management
Manufactured Housing Division

STATE OF Mi)
) SS:
COUNTY OF Oakland

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kimberly Scott, Director of Property Management, Manufactured Housing Division of M. Shapiro Real Estate Group Ohio, LLC, who acknowledged her execution of the foregoing Oath of Receiver on behalf of said limited liability company.

Signed and sealed this 2nd day of March, 2018.

Notary Public

My Commission Expires:
11/27/18

Printed

County of Residence:

CHERIE SHOWN
Notary Public, State of Michigan
County of Oakland
My Commission Expires Nov. 27, 2018
Acting in the County of

CHERIE SHOWN NOTARY PUBLIC COUNTY OF OAKLAND My Commission Expires NOV. 27, 2018 Acting in the County of STATE OF MICHIGAN

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Rutter, John

From: Sam Madorsky <Smadorsky@mshapirorealestate.com>
Sent: Tuesday, March 06, 2018 1:42 PM
To: 'Jeffrey.jones@puco.ohio.gov'
Cc: Rutter, John
Subject: Columbia Park Water and Sewer System, Certificate No. 89-7049-WS-TRF
Attachments: Notification Letter - J. Jones 20180305.pdf

Good Afternoon Mr. Jones,

Please see the attached, sent on behalf of Kim Scott.

Thank you,

Sam Madorsky
M. Shapiro Real Estate Group
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334
(P) 248-865-0066
(F) 248-865-1166
smadorsky@mshapirorealestate.com
www.mshapirorealestate.com

EXHIBIT
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M. SHAPIRO
Real Estate Group

March 5, 2018

Jeffrey R. Jones
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43266-0573

VIA FEDERAL EXPRESS & ELECTRONIC MAIL

Re: Order Appointing Receiver over COLUMBIA PARK EAST MHP LLC, ET AL.
Case No. CV-17-887110 - Columbia MHC East, LLC dba Columbia Park Water and Sewer System, Certificate No. 89-7049-WS-TRF

Dear Mr. Jones:

An Order Appointing Receiver (the "Order") was entered in the Court of Common Pleas in Cuyahoga County, Ohio on March 1, 2018, in connection with the matter of U.S. Bank, National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1 vs. Columbia Park East MHP LLC, et al. (Case No. CV-17-887110), appointing M. Shapiro Real Estate Group Ohio, LLC as the Receiver for certain property as is more specifically set forth in the Order (the "Property"). Enclosed please find a copy of the Order for your reference.

At your convenience, please provide copies of all violations relating to the Columbia Park Water and Sewer System, Certificate No. 89-7049-WS-TRF. Upon receipt, the Receiver will review and contact you to discuss further.

If you have any questions regarding this matter, please feel free to contact me directly at (248) 865-0066.

Very truly yours,

Kimberly A. Scott
Authorized Agent

KAS/sim
Enclosure

CC: John J. Rutter, Roetzel & Andress, LPA – Attorney for Plaintiff
File

102698442

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION
Plaintiff

COLUMBIA PARK EAST MHP LLC, ET AL.
Defendant

Case No: CV-17-887110

Judge: CAROLYN B FRIEDLAND

JOURNAL ENTRY

PLAINTIFF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE'S MOTION FOR APPOINTMENT OF A RECEIVER IS GRANTED AS AMENDED HEREIN. OSJ.

Judge Signature

Date
CPMCZ

FILED
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WINDOW C
CLERK OF COURTS
CUYAHOGA COUNTY

02/27/2018

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL PASS-THROUGH CERTIFICATES, SERIES 2007-C1,	:	CASE NO. CV-17-887110
	:	JUDGE CAROLYN B. FRIEDLAND
	:	MAGISTRATE MONICA KLEIN
Plaintiff,	:	
	:	**ORDER APPOINTING RECEIVER**
vs.	:	
COLUMBIA PARK EAST MHP LLC, ET AL.,	:	**(FINAL APPEALABLE ORDER)**
Defendants.	:	

THIS MATTER came to be heard upon the Complaint for Judgment Upon Promissory Note and Personal Guarantees, for Foreclosure of Mortgage, Enforcement of Assignment of Rents, Foreclosure of Security Interests in Personal Property, and for Appointment of Receiver (the "Complaint") of Plaintiff U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1 (the "Plaintiff") and Plaintiff's Motion for Immediate Appointment of Receiver and Memorandum in Support Thereof (the "Motion").

Upon consideration of the pleadings filed in this case, **IT IS HEREBY ORDERED:**

1. Appointment of Receiver.

M. Shapiro Real Estate Group Ohio, LLC, through Kimberly Scott, its Director of Property Management – Manufactured Housing Division (the "Receiver") is hereby

appointed receiver of the Receivership Property (as defined below), effective upon the Receiver posting a bond as required below and filing an oath in the form attached to this Order as **Exhibit B** (the "Effective Date"). The Receiver's duty to act as receiver is subject to the terms of this Order.

1.1 As of the Effective Date, the Receiver is authorized and directed to take immediate possession and full control of the Receivership Property and, subject to the further terms, covenants and conditions of this Order, to take such other actions as the Receiver deems reasonable and appropriate to take possession of, to exercise full control over, to prevent waste, and to preserve, manage, secure, and safeguard the Receivership Property. Upon the Receiver taking possession and full control of the Receivership Property, Defendant property owner Columbia Park East MHP LLC ("Borrower East") and Columbia Far West, LLC ("Borrower West") (collectively, the "Borrower" or "Borrowers") shall have neither possession nor control of, nor any right to, Income (as defined below) derived from the Receivership Property.

1.2 The Receiver shall take possession of and receive from all depositories, banks, brokerages, and otherwise (collectively, "Financial Institutions"), any money on deposit in all such Financial Institutions belonging to or arising from the operation of the Receivership Property, whether or not such funds are held in accounts titled in the name of said entities. The Court hereby directs all Financial Institutions to deliver such deposits to the Receiver and such records as the Receiver may reasonably request with respect to such accounts. The Receiver may indemnify, at no expense or liability to Borrowers or any Exculpated Parties (as defined below), the Financial Institution upon which such demand is made, and is empowered to open or close any such accounts.

1.3 The Borrowers are ordered to make available to the Receiver and/or its agents at the Receivership Property the following items for purposes of transitioning the management of the Receivership Property to the Receiver, to the extent said items are in the Borrowers' or its agents' or representatives' reasonable possession and control (Borrowers shall request its agents and representatives to cooperate) and not already in Plaintiff's possession and control and/or publicly available:

a. All keys.

b. Year-end 2016 operating statements, and year-to-date 2017 operating statements.

c. All on-site employee payroll records and employee files and applications (to the extent not Confidential Information, as defined below).

d. An inventory of all equipment, furniture, vehicles, and supplies.

e. Original titles for any community-owned manufactured homes;

f. Copies of any and all titles for any manufactured homes owned by Borrower that do not constitute Receivership Property;

g. Any and all reports pertaining to the Receivership Property including, but not limited to, environmental assessments, physical condition reports, and any information pertaining to pending or deferred maintenance or capital improvements;

h. All non-Confidential Information of Borrower about customers, tenants, current orders, and accounts receivable.

i. All existing service contracts.

j. All pending bids for contractor work.

k. All insurance policies on the Receivership Property and the terms thereof.

l. Information regarding all insurance claims affecting the Receivership Property that have been submitted in the past three (3) years.

m. Site plans, specifications, floor plans, drawings, measurements, etc.

n. Documents identifying and summarizing all pending litigation (excluding this action) affecting the Receivership Property.

o. All non-Confidential Information of Borrowers relating to the Receivership Property set forth in documents, books, records, computer files, computer equipment, software, management files,

equipment, furniture, supplies, and all passwords needed to access all such software and computer files.

p. All documents reflecting payables and vendor information.

q. All information concerning real estate taxes and personal property taxes.

r. A list of all utilities and utility accounts.

s. All leases including all communication/correspondence files.

t. Documents pertaining to all pending new leases/renewals.

u. A current rent roll showing the name of each tenant, and for each tenant, the space occupied, the lease commencement and expiration date, the rents payable, the aged accounts receivables, the rent paid to date, the security deposit being held for said tenant, and a comparative sales report, each in reasonable detail.

v. Tenant contact names and telephone numbers.

w. The occupant ledgers.

x. All security deposits, security deposit accounts, and an accounting for all security deposits.

y. All cash on hand including, without limitation, (i) petty cash, (ii) tenant/lessee security deposits, (iii) deposits held in escrow for any purpose, such as for payment of real estate taxes and insurance premiums, (iv) proceeds of insurance maintained for or pertaining to the Receivership Property, (v) rents or prepaid rents, (vi) reserves or other funds designated or intended for capital improvements, repairs, replacements, or renovations to, or in connection with, the Receivership Property, (vii) all other sums of any kind relating to or owed for the use, enjoyment, possession, improvement, maintenance, repair or occupancy of all or a portion of the Receivership Property.

z. A current aged accounts receivable/delinquency report.

aa. An aged listing of all trade payables and other payables.

bb. A list of all historical operating expenses for the Property.

cc. A current balance sheet.

dd. A current statement of income and expenses.

ee. A statement of cash flows.

ff. A cash flow forecast addressing the remaining calendar year.

gg. A budget vs. actual variance report.

hh. A leasing activity report.

ii. A capital expenditures report.

jj. Copies of bank statements with monthly reconciliations.

kk. Such other non-Confidential Information (and non-proprietary) records of Borrowers pertaining to the management of the Receivership Property as may reasonably be requested by the Receiver.

The foregoing items are to be made available to the Receiver with the understanding and agreement that (i) the foregoing are made available without representation, warranty or recourse or liability whatsoever (and on a completely "as is" basis), (ii) Borrowers and their agents and representatives may retain copies of any of the foregoing, and (iii) the foregoing may be subject to any consent required from third parties.

1.4 The Borrowers are under a continuing obligation to make available to the Receiver and to turn over all items listed in Section 1.3 after the Effective Date subject to the limitations and qualifications set forth in Section 1.3 hereof.

1.5 The Borrowers and their employees, officers, members, or directors are prohibited from removing any material personal property belonging to the Borrowers from the Receivership Property, or diverting any Income which is collateral for Plaintiff's loan.

1.6 The Borrowers, at no cost or expense to Borrowers or any of the Exculpated Parties (as defined in Section 14.12 herein), shall request that the Receiver and Plaintiff be added as additional insureds and Plaintiff as the loss payee on all insurance in effect on the Effective Date relating to the operation and management of the Receivership Property including, but not limited to, fire, extended coverage, auto and van coverage, property damage, liability, fidelity, errors and omissions, and workers compensation, and modifying the policies if deemed appropriate by the Receiver. The Borrower and its employees, agents, and representatives are prohibited from canceling, reducing, or

modifying any and all insurance coverage in existence with respect to the Receivership Property so long as the costs, fees and premiums are being paid.

2. Receiver's Duties and Authority.

2.1 Subject to the limitations and qualifications set forth in this Order, the Receiver shall be vested with and shall discharge the following authority, powers, and duties (at no cost, expense or liability whatsoever to Borrowers or any of the Exculpated Parties):

a. To maintain, secure, manage, operate, repair, and preserve the Receivership Property in such condition as may be deemed advisable by the Receiver in its reasonable discretion.

b. To change any and all locks to the Receivership Property and limit access to some or all of the Receivership Property as the Receiver deems appropriate.

c. To assume control over the Receivership Property and to collect and receive all Income.

d. To make routine repairs and incidental alterations to the Receivership Property, as may be necessary, including, but not limited to, electrical, plumbing, carpentry, masonry, and any other routine repairs or incidental alterations as may be required in the course of the ordinary maintenance and repair of the Receivership Property.

e. To take such action as deemed appropriate in the Receiver's discretion to comply with any orders or notices of violation affecting the Receivership Property issued by any federal, state, county, or municipal authority having jurisdiction thereof.

f. To prepare and maintain complete books, records, and financial reports of the Receivership Property in a form acceptable to the Court, including maintaining the following:

g. To allow the Plaintiff and its counsel, the Receiver and its counsel, appraisers, and other independent third-party consultants engaged by the Plaintiff and/or Receiver access to the Receivership Property at all reasonable times to inspect the Receivership Property and all books and records, and to cooperate with such parties and independent third-party consultants to evaluate the Receivership Property.

h. To review existing worker's compensation, disability, general liability, and "all risks" hazard insurance and to retain, modify, or

purchase such insurance, and name the Plaintiff and the Receiver as additional insureds, as the Receiver deems appropriate for the preservation and protection of the Receivership Property.

i. To open and maintain a separate account with a federally insured banking institution or savings association with offices in this State from which the Receiver shall disburse all authorized payments as provided in this Order. The Receiver may use the Borrowers' tax identification numbers to maintain existing bank accounts. The Receiver may use the Borrowers' tax identification numbers to open new bank accounts subject to the Borrowers' prior written consent. All funds received by the Receiver pertaining to the Receivership Property shall be held in trust in said account, and shall not be co-mingled with other funds collected by the Receiver for its own account or as an agent for others, until disbursed as provided by this Order.

j. To receive and endorse checks pertaining to the Receivership Property either in the Receiver's name or in the Borrowers' names.

k. To pay all appropriate real estate taxes, personal property taxes, and any other taxes or assessments against the Receivership Property, if the Receiver deems appropriate in its discretion. The Receiver shall not be liable for any commercial activity tax owed by the Borrowers related to the Receivership Property.

l. To prepare and file any tax returns and reports necessary to the operation of the Receivership Property (but not Borrowers or their affiliates) as may be required by law. The Receiver shall not be responsible for the preparation and filing of (and shall not prepare or file) any tax returns or reports for the Borrowers or their affiliates, (including income, personal property, commercial activity, gross receipts, sales and use, or other tax returns) but shall provide to the Borrowers information in the Receiver's possession that Borrowers deem reasonably necessary and appropriate for the Borrowers or their affiliates to prepare and file their returns and reports. The Borrowers shall provide to the Receiver any information needed to file any tax returns for the Receivership Property.

m. To operate the Receivership Property under any existing name or trade name (or a new name, if the Receiver deems it appropriate to do so).

n. To determine as soon as reasonably possible and report to the Court whether any Income previously received by the Borrowers has been used for purposes other than for the maintenance, management, and expenses of the Receivership Property or debt service of Plaintiff's loan.

o. To open and review mail addressed to the Borrowers pertaining to the Receivership Property. The Receiver may also take exclusive possession and control, by demand to the U.S. Postal Service in the name of the Receivership, of any postal boxes that are or were being used by the Borrowers for the receipt of rent or other mail pertaining to the Receivership Property.

p. To seek assistance of law enforcement officials as necessary to preserve the peace and protect the Receivership Property.

q. To employ attorneys, accountants, agents, and other professionals as the Receiver may from time to time deem appropriate and on such terms and conditions as the Receiver deems appropriate. The Receiver shall make application for Court approval to retain attorneys or other professionals as may be required by the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas.

r. To initiate, prosecute, defend, compromise, adjust, intervene in, or become party to such actions or proceedings in state or federal court as the Receiver may, in its opinion and discretion, be necessary or proper for the protection, maintenance and preservation of the Receivership Property or carrying out the terms of this Order.

s. To execute, cancel, or modify lease agreements or extensions of leases.

t. To reject any leases or unexpired contracts of the Borrowers that the Receiver deems to be burdensome on the Receivership Property.

u. To enforce any valid covenant of any existing lease.

3. <u>Receiver's Authority Subject to Approval.</u>

3.1 In carrying out the duties contained in this Order, the Receiver is authorized upon and subject to Approval (as defined in Section 12 herein), but is not required:

a. To execute, cancel, modify, renegotiate, or abrogate all service, maintenance, or other contracts in excess of $5,000 relating to the operation of the Receivership Property and with respect to Major Capital Expenditures (as defined in Section 12 herein). All such contracts are to be terminated upon a sale or disposition of the Receivership Property or termination of the Receivership.

b. To engage, on a competitive bid basis, contractors and skilled trades for purposes of (i) maintaining operations of the Receivership Property, and to execute such contracts if the aggregate amount will exceed $5,000, and (ii) carrying out Major Capital Expenditures;

however, no Approval shall be required for a life-threatening or other health or safety emergency.

c. To contest, protest, or appeal any ad valorem tax or assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Receivership Property. Any refund or reimbursement of taxes, whether paid by the Receiver or the Borrower, shall be deemed "Income" to be applied as provided herein.

d. To take any and all actions not specifically enumerated in Section 2.1 of this Order that are, in the Receiver's reasonable judgment, necessary to properly and adequately manage, control, operate, maintain, and protect the Receivership Property.

4. [Intentionally Blank].

5. Listing or Leasing Agent for Receivership Property.

5.1 The Receiver and the Receivership Property shall not be bound by any existing listing or leasing agency agreement affecting the Receivership Property in favor of the Borrower. The Borrower is enjoined from retaining a listing or leasing agent for the Receivership Property or from otherwise interfering with the Receiver's retention of a listing or leasing agent for the Receivership Property which is subject of an Approval. The Receiver is specifically authorized to retain a qualified third party leasing agent for the Receivership Property under terms reasonable acceptable to the Receiver and approved by the Plaintiff and for which adequate assurance is made for payment of such leasing agent.

6. Extent of Receiver's Authority.

6.1 Although the Receiver shall have possession and control of the Receivership Property, the Receiver shall not take title to the Receivership Property. Title to the Receivership Property shall remain in the name of Borrower (other than Income and other Receivership Property distributed to the Plaintiff as provided in this Order), unless foreclosed upon by the Plaintiff, in which case title to the Receivership Property will remain in the name of the Borrower until the delivery of the Sheriff's Deed.

6.2 Without limiting or expanding the foregoing, the Receiver is authorized to exercise only such actions as set forth in this Order, in all cases subject to all the duties of a receiver under the laws of the State of Ohio that may be incidental to the management of the Receivership Property as described in this Order. The Receiver shall not have any additional powers provided by law, except to the extent that the Court upon notice to Borrower may from time to time direct or confer.

6.3 The Receiver shall, during the pendency of this action, have the right to apply to this Court for further instructions or directions.

6.4 The authority granted to the Receiver is self-executing, unless the action requires Approval. Subject to the terms, covenants and conditions set forth in this Order, the Receiver is authorized to act on behalf of, and in Borrower's name (or the Receiver's name), as the Receiver deems appropriate without further order of this Court and without personal recourse against the Receiver (subject to the General Provisions).

6.5 The Receiver is authorized to accept advances from the Plaintiff for operating expenses, working capital, or improvements. All advances to the Receiver by the Plaintiff for the benefit of the Receivership Property, including any advances for working capital or improvements, and any other costs and expenses incurred by the Receiver under this Order, shall be deemed protective future advances under the Borrowers' mortgage and security agreements with the Plaintiff. Any such protective future advances shall be fully secured by the Plaintiff's priority liens and security interests against the Receivership Property. Without derogating from the foregoing, any and all funds advanced by the Plaintiff to the Receiver pursuant to this Order shall: (a) be deemed made pursuant to contract; (b) be added to the amount of the indebtedness owing to the Plaintiff; (c) be

deemed secured by the liens and security interests in favor of the Plaintiff on the Receivership Property to the same extent and with same priority as the other indebtedness secured by all existing liens and security interests in favor of the Plaintiff; and (d) accrue interest at the highest rate chargeable under the existing loan between the Borrowers and Plaintiff. All such funds advanced, including interest on advances, shall be deemed a prior lien entitled to payment before the repayment of any and all other claims against the Receivership Property (except for taxes and assessments having first priority as a matter of law). The Receiver is authorized to issue receivership certificate(s) to secure any such protective future advances by the Plaintiff, but subject to Approval. Nothing in this section shall be construed to require the Plaintiff to advance or loan funds to the Receiver for any reason.

7. **Receivership Property and Income.**

7.1 "Receivership Property" means and includes the following (to the extent the same constitute collateral under Plaintiff's loan and excluding any property (real, personal or other) owned by parties other than Borrowers):

a. The Mortgaged Property, as described in the attached **Exhibit A**.

b. All tangible and intangible personal property located at the Mortgaged Property.

c. All Income.

d. All permits, licenses, leases, other contracts, and other intangible property pertaining to the operation of the Mortgaged Property.

e. All trade names, trademarks, and intellectual property owned or used by the Borrower pertaining to the operation of the Mortgaged Property, subject to any required third party consent.

f. Any refund or reimbursement of taxes, whether for taxes paid by the Receiver or the Borrowers, and whether pertaining to any tax period before or after the entry of this order, and the right to institute or continue any contest, protest, or appeal of any ad valorem tax or

assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Mortgaged Property.

g. Any fixtures, trade fixtures, and tenant improvements or every kind or nature located in or upon or attached to, or used or intended to be used in connection with the operation of the Mortgaged Property and any buildings, structures or improvements located on the Mortgaged Property (to the full extent of the Borrowers' interests in such).

h. All permits, licenses, other contracts, and other intangible property pertaining to the Mortgaged Property and the operations of the Mortgaged Property.

i. All other property, estate, right, title, and interest as described in the Mortgage, Assignment of Rents, Note, and other loan documents.

j. All non-Confidential Information of Borrowers in books, records, accounts, and documents that in any way relate to the Receivership Property or Income.

7.2 The term "Income" means, collectively, all of Borrowers' cash, cash on hand, checks, cash equivalents, credit card receipts, demand deposit accounts, bank accounts, cash management or other financial accounts, bank or other deposits, and all other cash collateral (all whether now existing or later arising); Borrowers' current and past-due earnings, revenues, issues and profits, accounts, and accounts receivable (all whether unpaid, accrued, due, or to become due); all of Borrowers' claims to issues, profits, income, cash collateral, and all other gross income derived from the business operations of the Borrowers related to the Receivership Property, regardless of whether earned before or after entry of this Order.

7.3 Income shall be applied as follows (but subject to the lien rights granted to the Plaintiff):

a. to the Receiver's approved fees and expenses set forth in **Exhibit C** attached hereto;

b. to the current receivership period operating expenses including, but not limited to, any employee payroll expenses, payments due to tenants, brokers, contractors, subcontractors and materialmen, any real estate taxes, and any other taxes arising from normal business operations incurred during the Receivership. The Receiver shall not

make disbursements of more than $5,000 toward receivership period operating expenses without Approval except for life-threatening or other health or safety issues or except as required under the terms of any Leases, brokerage agreements, contractor agreements or other agreements approved or deemed approved by Plaintiff;

c. to the repayment of any receivership certificate securing any protective advances made by the Plaintiff to the Receiver;

d. to the balance due to the Plaintiff until paid in full; and

e. any surplus to be held pending further order of the Court.

7.4 The Receiver may make interim distributions of Income to Plaintiff after payment of current operating expenses provided above in Section 7.3, if the Receiver's "cash on hand" exceeds $50,000 and if it otherwise deems appropriate in its discretion.

8. Property Management Company.

8.1 The Receiver and the Receivership Property shall not be bound by any existing property management agreement affecting the Receivership Property. The Borrowers are enjoined from retaining a management firm for the Receivership Property or from otherwise interfering with the Receiver's retention of a management firm for the Receivership Property. The Receiver is specifically authorized to retain a qualified third party management agent for the Receivership Property under the compensation terms in the attached **Exhibit C**.

9. [Intentionally Blank].

10. Receiver Compensation, Reports, Accounting, And Bond.

10.1 The Receiver shall file an inventory of all Receivership Property in its possession within sixty (60) days of the date of this Order.

10.2 The Receiver shall be compensated as set forth in **Exhibit C**. The Receiver shall make application for payment to the Receiver and any professionals retained by the Receiver.

10.3 The Receiver's applications for compensation (including for compensation of its attorneys and authorized agents) ("Application for Compensation") shall be made only upon prior notice to creditors and other parties of record. Such Applications for Compensation shall include an itemized statement setting forth the compensation requested by the Receiver for the services rendered and costs incurred by it as receiver during the preceding three (3) months, reflecting the dates of service, time spent, and the nature of the services rendered and costs incurred. Unless any party entitled to receive said Application for Compensation as provided in Section 10.8 of this Order files with the Court an objection thereto, and serves copy of same on the Receiver and all other parties, within fourteen (14) days following service of the Application for Compensation, such Application for Compensation shall be approved, subject to the Court's review and approval of the Receiver's final accounting.

10.4 The Receiver's compensation and expense reimbursements shall be paid: (1) first from the Income from the Receivership Property, and (2) next, by the Plaintiff as a protective advance, but only to the extent that the Income is insufficient to pay the Receiver's compensation and expense reimbursements. The Receiver shall be permitted to deduct its fees and expenses directly from the Receivership Property Income or other proceeds of the Receivership Property. The Receiver is authorized to issue receivership certificate(s) to secure any protective advances made by the Plaintiff to pay the Receiver's compensation and expense reimbursements, but subject to Approval.

10.5 Nothing in this Order shall require the Receiver to advance funds other than from Income without a bond or security for payment satisfactory to the Receiver. The Receiver shall not advance funds other than from Income without Approval.

10.6 Within three (3) months of the date of this Order, and at regular intervals every three (3) months thereafter until discharged or at such other times as the Court may direct, the Receiver shall prepare and file a Receiver's Report (including a detailed accounting report and other appropriate information relative to the administration of the receivership and as required by law) pertaining to the operations of the Receivership Property, including at least the following information:

a. A balance sheet.

b. A statement of income and expenses

c. A statement of cash flows.

d. A cash flow forecast addressing the remaining calendar year.

e. A budget vs. actual variance report.

f. A detailed rent roll showing the name of each tenant, and for each tenant, the space occupied, the lease beginning and expiration date, the rent payable, the aged accounts receivable, the rent paid to date, the security deposit being held for said tenant, and a comparative sales report (with per square foot sales), each in reasonable detail.

g. A leasing activity report.

h. An aged payables report.

i. An aged receivables report.

j. A capital expenditures report.

k. Bank statements with monthly reconciliations.

10.7 The Receiver shall also prepare and file any other reports that may be required by the Court.

10.8 The Applications for Compensation and Receiver's Reports, which may be combined as a single filing, shall be filed with the Clerk of the Court and served upon the parties as provided in Ohio Civ. R. 5.

10.9 The Receiver shall furnish the Applications for Compensation and Receiver's Reports to all counsel of record and all parties not in default by electronic mail.

10.10 The Receiver shall post a surety bond from an insurance company licensed to do business in this State in an amount not less than $25,000.00. The cost of the bond is an expense of the Receivership.

11. Confidentiality.

11.1 "Confidential Information" means any non-public information.

11.2 The parties to this action, their counsel, and all those in active concert or participation with them, who receive actual notice of this Order, or otherwise, shall keep all Confidential Information provided by the Receiver confidential, and all such persons are prohibited from disclosing any Confidential Information to anyone other than the parties to this action and their counsel without specific order of this Court.

12. Approval.

12.1 With the exceptions set forth in Section 12.2, whenever this Order uses the term "subject to Approval" or "Approval," the Approval shall not be deemed given except by a specific "Order of Approval" from this Court; or (2) the consent of the Plaintiff or its counsel given in writing.

12.2 Notwithstanding the forgoing, and with respect to any non-budgeted capital expenditures in excess of $10,000, or group of related non-budgeted capital expenditures exceeding $10,000 in the aggregate (collectively, "Major Capital Expenditures"), the Receiver must obtain (1) an Order of Approval from this Court and (2) the consent of Plaintiff or its counsel given in writing. Plaintiff and its counsel shall not have the right to provide such any Approval contemplated in this Section 12 if (i) the Court is otherwise required to provide such Approval under this Order, (ii) such approval requires the Borrower (or the Receiver on behalf of the Borrower) to incur any monetary obligation, or (iii) further statutory approval is required.

13. **Term and Final Accounting.**

13.1 This Receivership shall continue until further order of the Court.

13.2 The Receiver can be removed only in the Court's equitable discretion upon a motion for cause. If the Receiver is removed, the Court may appoint a successor receiver.

13.3 Immediately upon termination of the Receivership, the Receiver shall turn over all of the Receivership Property as ordered by the Court.

13.4 Neither the termination of the Receivership nor the Receiver's removal will discharge the Receiver or the Receiver's bond, which shall be accomplished via separate Court order(s).

13.5 The Receiver shall submit a final accounting (with copies to the recipients of Receiver's Reports as identified above) for approval by the Court within thirty (30) days after the termination of the Receivership or the Receiver's removal.

13.6 Only after the Court approves the Receiver's final accounting may the Receiver be discharged and the Receiver's bond will be cancelled.

14. **General Provisions.**

14.1 The Receiver is only the receiver of the Receivership Property (as defined above), and not of any other assets, activities, business, or operations of the Borrower. The Receiver's responsibilities, duties, and liabilities are expressly limited to those stated in this Order as the same are related to the Receivership Property.

14.2 No person or entity shall file suit against the Receiver, its employees, agents, or its attorneys, or take other action against the Receiver or the Receiver's bond, without first obtaining an order of this Court permitting the suit or action upon motion;

provided, however, that no prior court order is required to file a motion in this action to enforce the provisions of this Order or any other order of this Court in this action.

14.3 The Receiver and its employees, agents, and attorneys shall have no personal liability in connection with any liabilities, obligations, liens, citations, code violations, or amounts owed to any of the Borrowers' creditors, taxing authorities, or bodies politic because of its duties as Receiver. Nothing in this Order shall grant any rights to trade creditors or general unsecured creditors, whose rights shall be solely determined in accordance with Ohio law.

14.4 [Intentionally Blank].

14.5 All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, agents, employees, and all other persons, firms, and corporations, hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against the Receivership Property, the books, records, revenues, profits, and related assets associated with the Receivership Property, or against the Receiver in any Court. These parties are further stayed from executing or issuing or causing the execution or issuance out of any Court of any writ, process, summons, attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon any of the Receivership Property or the books, records, revenues, profits and related assets associated with the Receivership Property, or upon the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of its duties in this proceeding or within the exclusive jurisdiction of this Court

over the Receivership Property and the books, records, revenues, profits and related assets associated with the Receivership Property.

14.6 The Receiver and its employees, agents, and attorneys shall have no personal liability and they shall have no claim asserted against them or the Receiver's bond relating to the Receiver's duties under this Order regarding any action taken or not taken by, except for failure to use ordinary care in administering the Receivership Property, exceeding the authority granted by the Court, or otherwise breaching the Receiver's fiduciary duties as a custodian of the Receivership Property. The Receiver, by use of the Receivership Property only, may hold harmless, and defend the Receiver, its employees, agents, and attorneys from and against any and all liabilities, costs, and expenses actually incurred, including, but not limited to, the cost of any bond required by this Order and reasonable legal and other fees and expenses incurred by them arising from or in any way connected to the performance of the Receiver's duties (but excluding consequential, punitive and/or special damages).

14.7 The Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order, and all those having claims against the Receivership Property who receive notice of this Order, are enjoined from and shall not:

a. **Commit Waste.** Commit or permit any intentional physical waste of all or any part of the Receivership Property, or suffer or commit or permit any act on all or any part of the Receivership Property in violation of law, or remove, transfer, encumber, or otherwise dispose of any of the Receivership Property.

b. **Collect Income.** Demand, collect, receive, discount, or in any other way divert or use any of the Income.

c. **Terminate any Utility Service.** Terminate or withhold any electric, gas, water, sewer, telephone, or other utility service supplying the

Receivership Property, require any utility deposit, or otherwise interfere with the continued operations of the Receivership Property.

d. **Interfere with the Receiver.** Directly or indirectly intentionally, in bad faith, interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management, marketing, or sale of the Receivership Property.

e. **Transfer or Encumber the Receivership Property.** Intentionally, in bad faith, expend, disburse, transfer, assign, sell, convey, devise, pledge, mortgage, create a security interest in, encumber, conceal, or in any manner whatsoever deal in or dispose of the whole or any part of the Receivership Property including, but not limited to, the Income, without prior court order.

f. **Impair the Preservation of the Receivership Property.** Intentionally, in bad faith do any act that will, or that will tend to, impair, defeat, divert, prevent, or prejudice the preservation of the Receivership Property, including the Income, or the preservation of the Plaintiffs' interest in the Receivership Property and the Income.

14.8 The Receiver shall faithfully perform and discharge the Receiver's duties and obey the orders of this Court.

14.9 The Receiver is subject to the personal jurisdiction of the Court.

14.10 This Order and its terms shall be considered compliant with the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas and this Order shall take precedence in the event of a conflict between them.

14.11 The Receiver shall be bound by each and every term contained in this Order and each and every obligation of the Receiver imposed by this Order.

14.12 Notwithstanding anything contained in the loan documents governing Plaintiff's loan or this Order and any Approval, neither Borrowers nor any principal, director, officer, director, employee, advisor, beneficiary thereof, nor any direct or indirect shareholder, partner, manager, member, trustee, agent, or affiliate of the foregoing (nor any principal, director, officer, employee, advisor or beneficiary of any direct or indirect shareholder, partner, manager, member, trustee, agent, of any of the foregoing), or

any legal representatives, successors or assigns of any of the foregoing (all of the foregoing being referred to collectively and individually as the case may be, the "Exculpated Parties") shall have any personal liability for, nor be joined as a party to any action with respect to: (a) the payment of any amount of money which is or may be payable under this Order or any Approval; or (b) the performance or discharge of any covenants, obligations or undertakings of Borrower or its affiliates under this Order or any Approval.

15. Amendment of Order.

15.1 This Order may be amended for cause after a motion or hearing.

16. No Prejudice to Foreclosure/Final Order.

16.1 This Order shall not prejudice the Plaintiff's foreclosure of any mortgage lien or security interest, or any action by the Plaintiff under any loan documents, or any of the Plaintiff's other claims as set forth in its Complaint or any amendments thereto.

17. Final Appealable Order.

17.1 This is a final appealable order and there is no just cause for delay in its entry.

18. Service of Order.

18.1 Pursuant to Civ. R. 58(B), the Clerk shall serve notice of the entry of this Order Appointing Receiver.

IT IS SO ORDERED

JUDGE CAROLYN B. FRIEDLAND

SUBMITTED BY:

/s/ John J. Rutter

John J. Rutter – 0079816
ROETZEL & ANDRESS, LPA
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ATTORNEY FOR PLAINTIFF

EXHIBIT A

1101-2467765

LEGAL DESCRIPTION

Real property in the Township of Olmsted, County of Cuyahoga, State of Ohio, and is described as follows:

PARCEL 1 (COLUMBIA TRAILER PARK):

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING "LOT 1" OF PLAT OF LOT SPLIT FOR TRAILER MART INC. AS RECORDED IN VOLUME 304, PAGE 47 OF CUYAHOGA COUNTY MAP RECORDS, OF PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 514.99 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

1. THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

2. THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

3. THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

4. THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

5. THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

6. THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

7. THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

8. THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

9. THENCE SOUTH 89 DEG. 06' 30" WEST 120.00 FEET TO A CORNER;

10. THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

11. THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

12. THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

13. THENCE SOUTH 89 DEG. 06' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

14. THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

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15. THENCE SOUTH 89 DEG 09' 46" WEST, 184.83 FEET TO A POINT;

16. THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

17. THENCE NORTH 88 DEG. 29' 10' WEST, 500.32 FEET TO A POINT;

18. THENCE NORTH 00 DEG. 37' 00" WEST 17.19 FEET TO A POINT;

19. THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

20. THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

21. THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

22. THENCE NORTH 01 DEG. 42. 50" WEST, 285.91 FEET TO A POINT;

23. THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

24. THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

25. THENCE SOUTH 89 DEG. 32' 11" WEST, 320.00 FEET TO A POINT;

26. THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD, 60 FEET WIDE;

27. THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

28. THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

29. THENCE NORTH 87 DEG. 30' 25" WEST, 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

30. THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

31. THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

32. THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

33. THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

34. THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

35. THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, 60 FEET WIDE;

36. THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

37. THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

38. THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

39. THENCE SOUTH 89 DEG. 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID

CENTERLINE OF FITCH ROAD;

40. THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

41. THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

42. THENCE SOUTH 01 DEG. 20' 20" EAST, 545.77 FEET TO A POINT;

43. THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

44. THENCE SOUTH 01 DEG. 21' 10" EAST 666.99 FEET TO A POINT;

45. THENCE NORTH 89 DEG. 32' 00" EAST, 2601.90 FEET TO A POINT;

46. THENCE SOUTH 00 DEG. 28' 00" EAST, 144.08 FEET TO A POINT;

47. THENCE NORTH 89 DEG. 27' 10' EAST, 231.71 FEET TO A POINT;

48. THENCE SOUTH 53 DEG. 22' 33" WEST 217.76 FEET TO A POINT;

49. THENCE SOUTH 01 DEG. 44' 34" EAST, 145.00 FEET TO A POINT;

50. THENCE SOUTH 43 DEG. 30' 43" WEST, 56.32 FEET TO A POINT;

51. THENCE SOUTH 88 DEG. 46' 00" WEST, 105.00 FEET TO A POINT;

52. THENCE SOUTH 01 DEG. 44' 34" EAST, 387.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 212.3636 ACRES OF LAND, ACCORDING TO A SURVEY BY ERIC NELSON, REGISTERED OHIO SURVEYOR NO. 7348 ON JANUARY 17, 2000, BE THE SAME MORE OR LESS.

PARCEL 2 (COLUMBIA SHOPS);

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP TRACT NO. 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING IN THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE, AT A POINT DISTANT NORTH 01 DEG. 44' 34" WEST, 235.00 FEET THEREFROM FROM ITS POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF SAID TRACT NO. 7;

THENCE SOUTH 88 DEG. 46' 00" WEST, 340.00 FEET TO A POINT;

THENCE SOUTH 01 DEG. 44' 34" EAST, 65.00 FEET, PARALLEL WITH SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 46' 00" WEST, 175.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 44' 34" WEST, 215.00 FEET PARALLEL WITH SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE NORTH 88 DEG. 46' 00" EAST, 105.00 FEET TO A POINT;

THENCE NORTH 43 DEG. 30' 43" EAST, 56.32 FEET TO A POINT;

THENCE NORTH 01 DEG. 44' 34" WEST, 145.00 FEET PARALLEL WITH SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE NORTH 53 DEG. 22' 23" EAST, 217.76 FEET TO A POINT;

THENCE NORTH 89 DEG. 27' 10" EAST, 191.39 FEET TO A POINT IN SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 01 DEG. 44' 34" EAST, 458.83 FEET TO THE PLACE OF BEGINNING CONTAINING 4.4318 ACRES OF LAND ACCORDING TO A SURVEY IN DECEMBER 1991 BY GILES NELSON, OHIO SURVEYOR NO. 4630, BE THE SAME MORE OR LESS.

AND FURTHER KNOWN AS BEING PARCEL NO. 4 IN THE SUBDIVISION PLAT OF TRAILER MART, INC. AS SHOWN BY THE RECORDED PLAT IN VOLUME 266 OF MAPS, PAGE 64 OF CUYAHOGA COUNTY RECORDS.

PARCEL 3 (LIFT STATION EASEMENT):

A NON-EXCLUSIVE EASEMENT FOR THE PURPOSE OF CONSTRUCTION, ERECTION, PLACEMENT, MAINTENANCE AND ALTERATION OF A SANITARY SEWER LIFT STATION AND PUMP STATION, AS ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 86-7223, PAGE 17 OF CUYAHOGA COUNTY RECORDS, AND ASSIGNED IN CUYAHOGA COUNTY RECORDERS FILE NUMBER 200106260775, OVER THE FOLLOWING PARCEL OF LAND, BOUNDED AND DESCRIBED AS FOLLOWS:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO, BEING KNOWN AS PART OF LOT 5, TRACT 5 IN SAID OLMSTED TOWNSHIP, AND MORE DEFINITELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF COLUMBIA ROAD AND THE LINE BETWEEN OLMSTED TOWNSHIP TRACTS 5 AND 7;

THENCE SOUTH 01 DEG. 04' 57" WEST IN THE CENTERLINE OF COLUMBIA ROAD, A DISTANCE OF 365.00 FEET TO A POINT;

THENCE NORTH 89 DEG. 36' 58" WEST, A DISTANCE OF 291.00 FEET TO A POINT, SAID POINT IS THE PRINCIPAL PLACE OF BEGINNING;

THENCE CONTINUING NORTH 89 DEG. 36' 58" WEST, A DISTANCE OF 15.00 FEET TO A POINT;

THENCE SOUTH 01 DEG. 04' 57" WEST, A DISTANCE OF 110.00 FEET TO A POINT;

THENCE SOUTH 89 DEG. 36' 58" EAST, A DISTANCE OF 15.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 04' 57" EAST, A DISTANCE OF 110.00 FEET TO THE PRINCIPAL PLACE OF BEGINNING BE THE SAME MORE OR LESS.

PARCEL 4 (PARKWAY DRIVE EASEMENT);

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS, ENCROACHMENTS AND UTILITIES APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 92-5575, PAGE 44 OF CUYAHOGA COUNTY RECORDS AND AMENDED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY AUDITOR'S FILE NUMBER 200106260770 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP TRACT NO. 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE, DISTANT NORTH 01 DEG. 44' 34" WEST 160.00 FEET FROM ITS POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF SAID TRACT NO. 7;

THENCE SOUTH 88 DEG. 46' WEST, 515.00 TO A POINT IN AN EASTERLY LINE OF PARCEL 8 DESCRIBED IN INSTRUMENT RECORDED IN VOLUME 92-5575, PAGE 44 OF CUYAHOGA COUNTY RECORDS;

THENCE NORTH 01 DEG. 44' 34" WEST, 60 FEET ALONG SAID EASTERLY LINE OF PARCEL NO. 8 TO A POINT;

THENCE NORTH 88 DEG. 46' EAST, 515.00 FEET TO A POINT IN SAID CENTER LINE OF COLUMBIA ROAD;

THENCE SOUTH 01 DEG. 44' 34" EAST, 60.00 FEET TO THE PLACE OF BEGINNING CONTAINING 0.7094 ACRES OF LAND BE THE SAME MORE OR LESS.

PARCEL 5 (EASEMENT FOR CARPORT AND ASPHALT DRIVE):

A NON-EXCLUSIVE EASEMENT FOR CARPORT AND ASPHALT DRIVE APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY RECORDER'S FILE NUMBER 200106260776 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 514.99 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 120.00 FEET TO A CORNER;

THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 0' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

THENCE SOUTH 89 DEG. 09' 46" WEST, 184.83 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 29' 10" WEST, 500.30 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 17.19 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 42' 50" WEST, 285.91 FEET TO A POINT;

THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST 320.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD (60 FEET WIDE);

THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

THENCE NORTH 87 DEG. 30' 25" WEST 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

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THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, (60 FEET WIDE);

THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID CENTERLINE OF FITCH ROAD;

THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

THENCE SOUTH 01 DEG. 20' 20' EAST, 545.77 FEET TO A POINT;

THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 62.11 FEET TO THE PRINCIPAL POINT OF BEGINNING OF THE PREMISES HEREIN DESCRIBED;

THENCE NORTH 88 DEG. 38' 50" EAST, 47.20 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 90.07 FEET TO A POINT;

THENCE SOUTH 88 DEG. 38' 50" WEST, 47.20 FEET TO A POINT;

THENCE NORTH 01 DEG. 21' 10" WEST, 90.07 FEET TO THE PRINCIPAL PLACE OF BEGINNING AND CONTAINING 0.0976 ACRES OF LAND (4251 SQUARE FEET) AS CALCULATED AND DESCRIBED BY THE NORTH COAST ENGINEERING AND SURVEYING CO., INC., IN JUNE, 2001, BE THE SAME MORE OR LESS.

PARCEL 6 (EASEMENT FOR ASPHALT DRIVE)

A NON-EXCLUSIVE EASEMENT FOR ASPHALT DRIVE APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY RECORDER'S FILE NUMBER 200106260777 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND

KNOWN AS BEING PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 514.99 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 120.00 FEET TO A CORNER;

THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

THENCE SOUTH 89 DEG. 09' 46" WEST, 184.83 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 29' 10" WEST, 500.30 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 17.19 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 42' 50" WEST, 285.91 FEET TO A POINT;

THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 320.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD (60 FEET WIDE);

THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

THENCE NORTH 87 DEG. 30' 25" WEST, 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, (60 FEET WIDE);

THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID CENTERLINE OF FITCH ROAD;

THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

THENCE SOUTH 01 DEG. 20' 20" EAST, 545.77 FEET TO A POINT;

THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 246.62 FEET TO THE PRINCIPAL POINT OF BEGINNING OF THE PREMISES HEREIN DESCRIBED;

THENCE NORTH 88 DEG. 38' 50" EAST, 35.58 FEET TO A POINT;

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THENCE SOUTH 01 DEG. 21' 10" EAST, 186.17 FEET TO A POINT;

THENCE SOUTH 88 DEG. 38' 50" WEST, 35.58 FEET TO A POINT;

THENCE NORTH 01 DEG. 21' 10" WEST, 186.17 FEET TO THE PRINCIPAL PLACE OF BEGINNING AND CONTAINING 0.1521 ACRES OF LAND (6625 SQUARE FEET) AS CALCULATED AND DESCRIBED BY THE NORTH COAST ENGINEERING AND SURVEYING CO., INC., IN JUNE, 2001, BE THE SAME MORE OR LESS.

PARCEL 7 (EASEMENT FOR MANUFACTURED HOMES):

A NON-EXCLUSIVE EASEMENT FOR MANUFACTURED HOMES APPURTENANT TO PARCEL 1, AS ESTABLISHED BY INSTRUMENT RECORDED AS CUYAHOGA COUNTY RECORDERS FILE NUMBER 200106260778 OVER THE FOLLOWING DESCRIBED PROPERTY:

SITUATED IN THE TOWNSHIP OF OLMSTED, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING "LOT 1" OF PLAT OF LOT SPLIT FOR TRAILER MART INC. AS RECORDED IN VOLUME 304, PAGE 47 OF CUYAHOGA COUNTY MAP RECORDS, OF PART OF ORIGINAL OLMSTED TOWNSHIP LOT NOS. 5 AND 7, TRACT 5 AND PART OF ORIGINAL OLMSTED TRACT 7 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID TRACT NO. 7 DISTANT SOUTH 88 DEG. 26' 40" WEST, 515.0 FEET THEREIN FROM ITS POINT OF INTERSECTION WITH THE CENTERLINE OF COLUMBIA ROAD, 60 FEET WIDE;

THENCE SOUTH 88 DEG. 26' 40" WEST, 85.00 FEET ALONG THE SAID SOUTHERLY LINE OF SAID TRACT NO. 7 TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 365.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 00" EAST, 294.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 49' 46" EAST, 110.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 26' 40" EAST, 306.00 FEET TO A POINT ON THE SAID CENTERLINE OF COLUMBIA ROAD;

THENCE SOUTH 00 DEG. 49' 46" EAST, 115.25 FEET TO A POINT ALONG SAID CENTERLINE OF COLUMBIA ROAD TO A POINT;

THENCE SOUTH 88 DEG. 26' 40" WEST, 1183.43 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 40" EAST, 632.41 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 120.00 FEET TO A CORNER;

THENCE NORTH 00 DEG. 41' 40" WEST, 30.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 148.20 FEET TO A CORNER;

THENCE SOUTH 00 DEG. 41' 40" EAST, 130.00 FEET TO A CORNER;

THENCE SOUTH 89 DEG. 06' 30" WEST, 314.69 FEET, PASSING THROUGH THE WESTERLY LINE

OF SAID ORIGINAL LOT NO. 5, TRACT 5 (O.L. 5) BEING ALSO THE EASTERLY LINE OF SAID ORIGINAL LOT 7, TRACT 5 (O.L. 7) 64.94 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 216.05 FEET TO A POINT;

THENCE SOUTH 89 DEG. 09' 46" WEST, 184.83 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 133.00 FEET TO A POINT;

THENCE NORTH 88 DEG. 29' 10" WEST, 500.00 FEET TO A POINT;

THENCE NORTH 00 DEG. 37' 00" WEST, 17.19 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 193.84 FEET TO A POINT;

THENCE SOUTH 01 DEG. 42' 50" EAST, 152.29 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 150.00 FEET TO A POINT;

THENCE NORTH 01 DEG. 42' 50" WEST, 285.91 FEET TO A POINT;

THENCE NORTH 89 DEG. 43' 30" WEST, 658.12 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 264.24 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 11" WEST, 320.00 FEET TO A POINT;

THENCE SOUTH 00 DEG. 41' 21" EAST, 430.00 FEET TO A POINT ON THE CENTERLINE OF COOK ROAD, 60 FEET WIDE;

THENCE SOUTH 89 DEG. 32' 11" WEST, 40.00 FEET ALONG SAID CENTERLINE OF COOK ROAD TO A POINT;

THENCE NORTH 00 DEG. 41' 21" WEST, 361.96 FEET TO A POINT;

THENCE NORTH 87 DEG. 30' 25" WEST, 859.07 FEET TO A POINT ON THE WESTERLY LINE OF SAID O.L. 7;

THENCE NORTH 00 DEG. 38' 50" WEST, 1058.60 FEET ALONG THE SAID WESTERLY LINE OF O.L. 7 TO THE NORTHWESTERLY CORNER THEREOF;

THENCE NORTH 89 DEG. 03' 10" EAST, 653.06 FEET ALONG THE SAID NORTHERLY LINE OF O.L. 7 TO A POINT;

THENCE NORTH 01 DEG. 28' 49" WEST, 854.37 FEET TO A POINT;

THENCE SOUTH 89 DEG. 18' 35" WEST, 422.97 FEET TO A POINT;

THENCE NORTH 00 DEG. 12' 42" WEST, 318.71 FEET TO A POINT;

THENCE SOUTH 89 DEG. 32' 15" WEST, 680.00 FEET TO A POINT ON THE CENTERLINE OF FITCH ROAD, 60 FEET WIDE;

THENCE NORTH 00 DEG. 10' 10" EAST, 75.00 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO A POINT;

THENCE NORTH 89 DEG. 32' 15" EAST, 422.91 FEET TO A POINT;

THENCE NORTH 00 DEG. 10' 10" EAST, 103.00 FEET TO A POINT;

THENCE SOUTH 89 DE.G 32' 15" WEST, 422.91 FEET TO A POINT ON THE SAID CENTERLINE OF FITCH ROAD;

THENCE NORTH 00 DEG. 10' 10" EAST, 737.70 FEET ALONG SAID CENTERLINE OF FITCH ROAD TO ITS POINT OF INTERSECTION WITH THE NORTHERLY LINE OF SAID TRACT 7;

THENCE NORTH 89 DEG. 02' 55" EAST, 1682.02 FEET ALONG THE SAID NORTHERLY LINE OF TRACT 7 TO A POINT;

THENCE SOUTH 01 DEG. 20' 20" EAST, 545.77 FEET TO A POINT;

THENCE NORTH 89 DEG. 56' 15" EAST, 382.43 FEET TO A POINT;

THENCE SOUTH 01 DEG. 21' 10" EAST, 666.99 FEET TO A POINT;

THENCE NORTH 89 DEG. 32' 00" EAST, 2601.90 FEET TO A POINT;

THENCE SOUTH 01 DEG. 28' 00" EAST, 92.46 FEET TO THE PRINCIPAL POINT OF BEGINNING OF THE PREMISES HEREIN DESCRIBED;

THENCE SOUTH 55 DEG. 52' 41" EAST, 90.75 FEET TO A POINT;

THENCE SOUTH 89 DEG. 27' 10" WEST, 74.71 FEET TO A POINT;

THENCE NORTH 00 DEG. 28' 00" WEST, 51.62 FEET TO THE PRINCIPAL PLACE OF BEGINNING AND CONTAINING 0.0443 ACRES OF LAND (1930 SQUARE FEET) AS CALCULATED AND DESCRIBED BY THE NORTH COAST ENGINEERING AND SURVEYING CO., INC., IN JUNE, 2001, BE THE SAME MORE OR LESS.

PARCEL 8 (CLEVELAND TRAILER PARK):

SITUATED IN THE CITY OF CLEVELAND, COUNTY OF CUYAHOGA, STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL ROCKPORT TOWNSHIP SECTION NO. 1 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE CENTERLINE OF BROOKPARK ROAD, S.W., (100 FEET WIDE), AT THE SOUTHEASTERLY CORNER OF SAID ORIGINAL ROCKPORT TOWNSHIP SECTION NO. 1;

THENCE SOUTH 89 DEG. 03' 00" WEST, ALONG THE CENTERLINE OF BROOKPARK ROAD, S.W., 429.11 FEET TO THE SOUTHEASTERLY CORNER OF LAND CONVEYED TO THE S.C.K. CORPORATION, BY DEED DATED MAY 12, 1954 AND RECORDED IN VOLUME 8043, PAGE 722 OF CUYAHOGA COUNTY RECORDS;

THENCE NORTH 00 DEG. 32' 30" WEST, ALONG THE EASTERLY LINE OF LAND SO CONVEYED TO THE S.C.K. CORPORATION, 1120.97 FEET TO THE SOUTHERLY LINE OF PARCEL NO. 1 OF LAND CONVEYED TO THE NEW YORK CENTRAL RAILROAD CO. BY DEED DATED OCTOBER 17, 1946 AND RECORDED IN VOLUME 6235, PAGE 526 OF CUYAHOGA COUNTY RECORDS;

THENCE SOUTH 89 DEG. 48' 10" EAST, ALONG THE SOUTHERLY LINE OF THE FIRST PARCEL OF LAND SO CONVEYED, 429.13 FEET TO THE EASTERLY LINE OF SAID ORIGINAL ROCKPORT

TOWNSHIP SECTION NO. 1;

THENCE SOUTH 00 DEG. 32' 30" EAST, ALONG THE EASTERLY LINE OF SAID SECTION NO. 1, 1112.38 FEET TO THE PLACE OF BEGINNING, BE THE SAME MORE OR LESS.

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EXHIBIT B
(Oath of Receiver)

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-C1,	:	CASE NO.
	:	JUDGE
	:	MAGISTRATE
Plaintiff,	:	
vs.	:	**OATH OF RECEIVER**
COLUMBIA PARK EAST MHP LLC, ET AL.,	:	
Defendants.	:	

The undersigned, being first duly sworn upon its oath, hereby states that she will faithfully and honestly discharge the duties of Receiver in the above-captioned action to the best of her abilities and will obey the orders of this Court.

The undersigned further acknowledges:

(1) That she will act in conformity with Ohio law and the Local Rules of the Cuyahoga County, Ohio Court of Common Pleas;

(2) That she will deposit all funds coming into her hands into a separate trust account for the receivership estate, with full contemporaneous record-keeping for all funds;

(3) That she will avoid any conflict of interest;

(4) That she will not directly or indirectly pay or accept anything of value that has not been fully and timely disclosed and formally approved by this Court;

(5) That she will not directly or indirectly purchase, acquire, or accept any interest in the property managed, appraised, or sold through the receivership; and

(6) That she will otherwise act in the best interests of the estate.

M. SHAPIRO REAL ESTATE GROUP OHIO, LLC

_____
Kimberly Scott
Director of Property Management
Manufactured Housing Division

STATE OF_____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kimberly Scott, Director of Property Management, Manufactured Housing Division of M. Shapiro Real Estate Group Ohio, LLC, who acknowledged her execution of the foregoing Oath of Receiver on behalf of said limited liability company.

Signed and sealed this ____ day of _____, 2017.

_____
Notary Public

My Commission Expires:

_____

_____
Printed

County of Residence:

EXHIBIT C
(Compensation Schedule)

Receiver Fee:	
Monthly Fee	The monthly fee is the amount equal to 5% of gross revenues collected per month
Initial Set-up Fee	The Initial Set-up Fee is a one-time only fee equal to 50% of Monthly Fee collected for Month 1
On-Site Presence of Sr. Management	No additional fee
Leasing Fees:	
Renewals and Extensions	No additional fee
Construction Management	No additional fee
Out of Scope Work (*e.g.* preparation of reports, court appearances, etc…)	No additional fee
Travel Expenses	No additional fee
Disposition Fee	The Disposition Fee is a one-time fee equal to 50% of Monthly Fee for the Month in which Receivership Property is disposed/terminated.

Court of Appeals of Ohio

DEC 20 2018

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 106910

U.S. BANK NATIONAL ASSOCIATION, TRUSTEE

PLAINTIFF-APPELLEE

vs.

COLUMBIA PARK EAST MHP, L.L.C., ET AL.

DEFENDANTS-APPELLANTS

JUDGMENT:
AFFIRMED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-17-887110

BEFORE: Stewart, J., McCormack, P.J., and Blackmon, J.

RELEASED AND JOURNALIZED: December 20, 2018

EXHIBIT
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P

CV17887110 106781344

ATTORNEYS FOR APPELLANTS

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Kathryn E. Weber
Brendon P. Friesen
Mansour Gavin L.P.A.
North Point Tower
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ATTORNEY FOR APPELLEE

John J. Rutter
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222 South Main Street
Akron, OH 44308

MELODY J. STEWART, J.:

{¶1} This is an appeal from the appointment of a receiver to oversee certain mortgaged commercial real estate subject to foreclosure caused by a default on a promissory note. The issues are whether the court complied with the procedural prerequisites for appointing a receiver, whether the court erred by granting the receiver authority over assets not covered by the mortgage being foreclosed on, and whether the appointment of the receiver prevented the borrowers from satisfying their obligations under the note. We find no error and affirm.

{¶2} There are three parcels of real property at issue in this case. Those parcels were purchased with a promissory note currently held by plaintiff-appellee U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1. At the time of this appeal, the debtors-defendants are Columbia Park East MHP L.L.C. and Columbia East MHC, L.L.C. ("Columbia East Defendants"), and defendant Columbia Far West Investors, L.L.C. ("Columbia West"). U.S. Bank commenced this action seeking judgment on a matured promissory note, foreclosure on the subject premises and fixtures, and the appointment of a receiver to oversee the property subject to the mortgage and other liens. With respect to its request for the appointment of a

receiver, U.S. Bank maintained that the loan documents "irrevocably consented to the appointment of a receiver" in the event of a default on the note.

{¶3} In addition to the contractual right to have a receiver appointed, U.S. Bank offered three reasons in support of its request. First, U.S. Bank maintained that Columbia East and Columbia West, who each held a 50 percent share of the property as tenants in common, engaged in unauthorized conveyances of the mortgaged real estate. In particular, U.S. Bank claimed that Columbia East transferred its 50 percent interest to nonborrower entities in violation of the mortgage covenants. Columbia East then reacquired its 50 percent interest from the nonborrower entities. Columbia East later claimed that it acquired Columbia West's 50 percent interest, although Columbia West denied this (Columbia East and Columbia West are engaged in litigation on the matter).

{¶4} The second reason in support of U.S. Bank's request is that it maintained that one of the properties contained a wastewater treatment plant that had been "subject to significant and long-running environmental violations that have been documented by the Ohio EPA and that require immediate attention." U.S. Bank claimed that the loan documents made Columbia East responsible for the cost of remediation of the environmental violations and payment of fines resulting from the violations.

{¶5} Third, U.S. Bank claimed that a receiver was necessary to preserve and protect all of the subject collateral. It maintained that a receiver was necessary to enforce the borrowers' contractual assignment of rents from the properties, all of which were income-producing. It believed that a receiver would prevent Columbia East from diverting rents to pay for the remediation of environmental violations that Columbia East alone was obligated to pay.

{¶6} Only the Columbia East defendants opposed the motion for the appointment of a receiver. They did not deny that the note had not been satisfied upon maturity. They also conceded that there were Ohio EPA violations on the property that required remediation. Nonetheless, the Columbia East defendants argued that the appointment of a receiver was unnecessary because they were prepared to satisfy their outstanding liabilities, including remediation of environmental violations, through the sale of the property. They informed the court that they had secured a buyer for the property and were continuing to make monthly payments in order to demonstrate their commitment to fulfilling their obligations under the note. The Columbia East defendants further told the court that they were currently engaged in litigation with Columbia West due to "Borrower West's failures to take responsibility and abide by its agreements that have caused this matter to escalate * * *." They argued that Columbia West refused to contribute capital to satisfy the

environmental violations and that the appointment of a receiver would only frustrate their attempts to bring the subject properties into compliance.

{¶7} A magistrate conducted an oral hearing on the motion to appoint a receiver. During the hearing, Columbia East argued that the foreclosure action had not been filed with a proper title commitment because it lacked a judicial endorsement. Columbia East had previously raised the issue in a motion to dismiss the complaint, arguing that U.S. Bank failed to file the preliminary judicial report within 14 days of filing the foreclosure complaint, in violation of Loc.R. 24.0(A) of the Cuyahoga County of Common Pleas, General Division.

{¶8} Although the court had earlier denied the motion, the magistrate ordered the parties to brief the issue of whether the title commitment filed in the case complied with relevant statutes; in particular, whether a judicial endorsement is mandatory and jurisdictional. Only U.S. Bank submitted additional briefing. In addition, U.S. Bank submitted a notice of filing a judicial commitment endorsement to title commitment. The court then granted the motion for a receiver without opinion.

{¶9} The Columbia East defendants first argue that the court erred as a matter of law by appointing a receiver because U.S. Bank failed to comply with Loc.R. 24.0(A) by failing to file the required title work with a judicial endorsement, thus depriving the court of subject matter jurisdiction to proceed with the action.

{¶10} Loc.R. 24.0(A) requires a party seeking foreclosure to file a preliminary judicial report: "In cases to quiet title, for partition, and for the marshaling and foreclosure of liens on real property the attorney for the plaintiff shall file with the Clerk, the original guaranteed evidence of the state of the record title to the property in question (Preliminary Judicial Report) * * *." That rule does not go to the court's subject matter jurisdiction. *Home Fed. Savs. & Loans Assn. v. Keck*, 2016-Ohio-651, 59 N.E.3d 706, ¶ 49 (7th Dist.) ("Inadequacies in the judicial report filed after the preliminary judicial report would not remove the case from the court's subject matter jurisdiction."); *Farm Credit Servs. of Am. v. Pertuset*, 4th Dist. Scioto No. 14CA3659, 2015-Ohio-3558, ¶ 10-11, 14. In fact, Loc.R. 24.0(C) states that a "[f]ailure to comply with this rule may result in dismissal." Because dismissal for failure to file a preliminary judicial report is permissive, it is not jurisdictional.

{¶11} We also reject the argument that U.S. Bank failed to comply with R.C. 2329.191. In every action demanding the judicial sale of commercial real estate, "the party seeking that judicial sale shall file with the clerk of the court of common pleas within fourteen days after filing the pleadings requesting relief *either* a preliminary judicial report *or* a commitment for an owner's fee policy of

title insurance * * *."[1] (Emphasis added.) R.C. 2329.191(C). Loc.R. 24.0(A) makes no mention of a commitment for a policy of title insurance.

{¶12} Although courts have the power to create rules of practice, those rules "shall not abridge, enlarge, or modify any substantive right." Section 5(B), Article IV, Ohio Constitution. "Thus, if a rule created pursuant to Section 5(B), Article IV conflicts with a statute, the rule will control for procedural matters, and the statute will control for matters of substantive law." *Proctor v. Kardassilaris*, 115 Ohio St.3d 71, 2007-Ohio-4838, 873 N.E.2d 872, ¶ 17, citing *Boyer v. Boyer*, 46 Ohio St.2d 83, 86, 346 N.E.2d 286 (1976). In this context, a "substantive" right is "'that body of law which creates, defines and regulates the rights of the parties.'" *Id.*, citing *Krause v. State*, 31 Ohio St.2d 132, 145, 285 N.E.2d 736 (1972), *overruled on other grounds, Schenkolewski v. Cleveland Metroparks Sys.*, 67 Ohio St.2d 31, 426 N.E.2d 784 (1981), paragraph one of the syllabus.

{¶13} R.C. 2329.191(C) is a substantive statute. The court of common pleas cannot promulgate rules that directly conflict with the statute. R.C. 2329.191(C) thus controls and the court of common pleas cannot insist that a

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[1] A preliminary judicial report is a document that lists the name of the record owner of real property, a legal description of the parcel of land, and a listing of all interests in the property that appear of record. *See* R.C. 2329.191(B). In lieu of a preliminary judicial report, a party may file a title commitment. A title commitment is "a promise to insure a particular state of title." *First Midwest Bank, N.A. v. Stewart Title Guar. Co.*, 218 Ill.2d 326, 340-341, 300 Ill.Dec. 69, 843 N.E.2d 327 (2006).

plaintiff seeking foreclosure on commercial real estate file a preliminary judicial report, when the statute otherwise allows the filing of a title commitment.

{¶14} The Columbia East defendants next argue that U.S. Bank failed to file a title commitment with the required judicial endorsement.

{¶15} At a minimum, a title commitment must contain the same information that is required in a preliminary judicial report. *See* R.C. 2329.191(C). In addition, the title commitment must contain the representation that the title commitment "shall not expire until thirty days after the recordation of the deed by the officer who makes the sale to that purchaser." R.C. 2329.191(C). The parties refer to this obligation as a "judicial endorsement." The Columbia East defendants maintain that U.S. Bank's title commitment did not contain this information, so the trial court lacked subject matter jurisdiction to proceed with the foreclosure.

{¶16} "Subject matter" jurisdiction is, broadly speaking, the power to "entertain and adjudicate a particular class of cases." *Bank of Am., N.A. v. Kuchta*, 141 Ohio St.3d 75, 2014-Ohio-4275, 21 N.E.3d 1040, ¶ 19. There is no question that "actions in foreclosure are within the subject-matter jurisdiction of a court of common pleas." *Id.* at ¶ 20. What the Columbia defendants argue is that a defect in the title commitment deprived the court of subject matter jurisdiction. It is well-settled, however, that "[i]nadequacies in the judicial report filed after the preliminary judicial report would not remove the case from

the court's subject matter jurisdiction." *Keck*, 2016-Ohio-651, 59 N.E.3d 706, at ¶ 49, citing *Pertuset*, 4th Dist. No. 14CA3659, 2015-Ohio-3558, at ¶ 10-11, 14. The court had subject matter jurisdiction over the foreclosure. To the extent that there are any alleged deficiencies in U.S. Bank's title commitment, we agree with U.S. Bank that a defective title commitment affects only the foreclosure claim. The narrow subject of this appeal — whether the court erred by appointing a receiver — means that any question about the actual content of the title commitment (apart from it depriving the court of subject matter jurisdiction), is not a part of this appeal.

{¶17} The Columbia East defendants next argue that the court erred when it appointed a receiver over the wastewater treatment plant because that facility is not encumbered by the mortgage that is the subject of the foreclosure. U.S. Bank does not deny that the wastewater treatment plant is not encumbered by the mortgage, but maintains that the wastewater treatment plant has become so integrated with the mortgaged property that it is now a "fixture" that cannot be severed from the real property under mortgage.

{¶18} Article 1.1 of the mortgage defines the "mortgaged property" in part as:

> (a) the real property described in *Exhibit A*, together with any greater estate therein as hereafter may be acquired by Mortgagor (the "*Land*"), (b) all buildings, structures and other improvements, now or at any time situated, placed or constructed upon the Land (the "*Improvements*"), (c) all materials, supplies, equipment,

> apparatus and other items of personal property now owned or hereafter acquired by Mortgagor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the "*Fixtures*"), * * *.

(Emphasis sic.)

{¶19} Article 4.1(c) of the mortgage further stated that in the event of a default on the loan agreement, U.S. Bank had the right to enter the mortgaged property and "manage, operate or otherwise use the Mortgaged Property upon such terms and conditions as Mortgagee may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Mortgagee deems necessary or desirable) * * *."

{¶20} A "fixture" is "an article which was a chattel, but which by being physically annexed or affixed to the realty, became accessory to it and part and parcel of it." *Teaff v. Hewitt*, 1 Ohio St. 511, 527 (1853). In more recent times, however, the concept of physical annexation of a chattel to property has been supplanted by other considerations. *Perez Bar & Grill v. Schneider*, 9th Dist. Lorain No. 11CA010076, 2012-Ohio-5820, ¶ 17. Currently, when determining whether a chattel is a fixture, the court must take into account

> such facts as the nature of the property; the manner in which it is annexed to the realty; the purpose for which the annexation is made; the intention the annexing party to make the property a part of the realty; the degree of difficulty and extent of any loss involved

> in removing the property from the realty; and the damage to the severed property which such removal would cause.

Masheter v. Boehm, 37 Ohio St.2d 68, 71, 307 N.E.2d 533 (1974).

{¶21} U.S. Bank claims, without contradiction, that the wastewater treatment plant, located on the mortgaged property, provides drinking water and sanitary sewer service to more than 1,000 residents of the Columbia Park mobile home facility. In addition, the Columbia East defendants conceded in their brief in opposition to the appointment of a receiver that "the environmental conditions at the subject properties are serious and need to be remedied in order to protect the health and safety of the residents." U.S. Bank claims that remediation will cost as much as $4.5 million.

{¶22} These facts show that the wastewater treatment plant exists solely to serve the Columbia Park facility. Not only are the wastewater treatment plant facilities permanently affixed to the mortgaged property (there is no claim that they can be moved or transported), they are integral to the mortgaged property because they provide the sole source of sanitary sewer services to the residents. With no other sewer services readily available as an option to the residents, we conclude that the wastewater treatment plant cannot be considered separate and apart from the mortgaged property, at least not for purposes of appointing a receiver. The ongoing environmental violations have directly affected the value of the mortgaged property such that the receiver

would have to manage the remediation efforts in order to protect the value of the mortgaged property.

{¶23} Finally, the Columbia East defendants maintain that the appointment of a receiver stymied their efforts to sell the mortgaged property because a potential buyer withdrew a letter of intent to purchase the property.

{¶24} Regardless of whether the appointment of a receiver caused a sale of the property to fall through, the fact remains that Columbia East consented to the appointment of a receiver. Article 4.1(e) of the mortgage allows the mortgagee, in the event of a default on the loan agreement, to apply "as a matter of strict right and without notice to Mortgagor" for the appointment of a receiver, the appointment of which the mortgagor "irrevocably consents." Having given that consent, the Columbia East defendants cannot complain that the court erred by appointing a receiver.

{¶25} In any event, it is unclear that it was the appointment of a receiver that caused the potential buyer to pull out of a sale. At the same time, Columbia East and Columbia West were engaged in litigation over ownership of the mortgaged properties. During a hearing held on the motion to appoint a receiver, U.S. Bank referenced the pending litigation and claimed that there was no assurance that the deal would close because "[t]hey are still in litigation over who has title and who is doing what." One of the principals of Columbia MHC East tacitly verified that claim, telling the court that the sale to the potential

buyer would close only with the cooperation of Columbia West. The case between Columbia East and Columbia West was ongoing, so we have no basis to conclude that a sale of the mortgaged property fell through as a direct consequence of the appointment of a receiver as opposed to the ongoing dispute between the Columbia entities over their respective ownership interests.

{¶26} Judgment affirmed.

It is ordered that appellee recover of appellants costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

FILED AND JOURNALIZED
PER APP.R. 22(C)

DEC 20 2018

CUYAHOGA COUNTY CLERK
OF THE COURT OF APPEALS
By Greg Heath Deputy

MELODY J. STEWART, JUDGE

TIM McCORMACK, P.J., and
PATRICIA ANN BLACKMON, J., CONCUR

104515633

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. BANK NATIONAL ASSOCIATION
Plaintiff

COLUMBIA PARK EAST MHP LLC, ET AL.
Defendant

Case No: CV-17-887110

Judge: CAROLYN B FRIEDLAND

JOURNAL ENTRY

ORDER AND OPINION HOLDING DEFENDANTS COLUMBIA PARK EAST MHP, LLC, KENNETH BURNHAM, ROBERT C. MORGAN, GEORGE DAGRACA, JAMES A. MARTIN, AND STEVEN J. GORDON IN CONTEMPT OF COURT. O.S.J.

Judge Signature Date

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CLERK OF COURTS
CUYAHOGA COUNTY

EXHIBIT
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07/09/2018

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY

U.S. BANK NATIONAL ASSOCIATION, Plaintiff, vs. COLUMBIA PARK EAST MHP, LLC, et al., Defendants.	)	CASE NO. CV-17-887110 JUDGE CAROLYN B. FRIEDLAND ORDER AND OPINION

CAROLYN FRIEDLAND, J.:

Hearing held in open court on Receiver's Third Emergency Motion to Show Cause, filed 04/19/18, and Supplement to Receiver's April 19, 2018 Third Emergency Motion to Show Cause.

Prior to the Hearing, Defendants Columbia Park East MHP, LLC, Columbia MHC East, LLC, Columbia Park Manufactured Home Sales, Inc., Kenneth Burnham, Robert C. Morgan, George DaGraca, James A. Martin, and Steven J. Gordon (collectively, "Columbia East Defendants"), challenged the Court's jurisdiction to proceed with the contempt hearing since the Receivership Order is currently on appeal before the Eighth District Court of Appeals. "When an appeal is taken, the lower court is divested of jurisdiction, except to take action in aid of the appeal, until the case is remanded to it by the appellate court." *State v. Latorres*, 97 Ohio St.3d 1214, 2002-Ohio-5864, ¶10. "[T]he trial court does retain jurisdiction over issues not inconsistent with that of the appellate court to review, affirm, modify or reverse the appealed judgment, *such as the collateral*

issues like contempt, appointment of a receiver and injunction." *Id.*, citing *State ex rel. Special Prosecutors v. Judges, Belmont Cty. Court of Common Pleas*, 55 Ohio St.2d 94, 97 (1978) (emphasis added). "Until and unless a supersedeas bond is posted the trial court retains jurisdiction over its judgments as well as proceedings in aid of the same." *State ex rel Home Savs. Bank v. Gallagher*, 8th Dist. Cuyahoga No. 106457, 2018-Ohio-1747, ¶13, quoting *State ex rel. Klein v. Chorpening*, 6 Ohio St.3d 3, 4 (1983).

It is undisputed that the Columbia East Defendants failed to move to stay the enforcement of the Receivership Order. In absence of a stay of execution or the execution of a supersedeas bond, this Court retains jurisdiction to enforce its orders and to find a party to be in contempt. Therefore, the Columbia East Defendants' oral motion challenging jurisdiction is denied.

Based upon the evidence adduced at the Hearing and filings submitted, the Court finds by clear and convincing evidence that the Columbia East Defendants are in contempt of this Court's Order of Receivership ("Order"), entered 03/01/18, for obstructing Court process by deliberately violating Paragraph 14.7(B) of the Order.[1]

An Order is effective once entered by the Court. "[T]he improper qualification of a receiver does not render the appointment order void, and also does not affect the jurisdiction of the trial court to go forward in the underlying case." *Carr v. Acacia Country Club Co.*, 8th Dist. Cuyahoga No. 97989, 2012-Ohio-4723, ¶26, citing *Hummer v. Hummer*,

[1] At the Hearing, the Columbia East Defendants agreed to provide "Option A" access for the Receiver in Rent Manager by the Tuesday, June 26, 2018, removing this issue from the Court's consideration at the Hearing.

8th Dist. No. 96132, 2011-Ohio-3767, ¶13. The Receiver's oath and affirmation under Paragraph 1 of the Order is irrelevant in determining whether a violation of Paragraph 14.7 occurred. In fact, "[a]n oath or bond may be ordered nunc pro tunc and relate back to the time of the appointment." *Id.*, citing *Fifth Third Bank v. Q.W.V. Properties, LLC*, 12th Dist. No. CA2010-09-245, 2011 Ohio 4341, ¶32, and *Hummer* at ¶13. Paragraph 14.7 is violated when the "Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of [the] Order" do an act or omission expressly prohibited in that Paragraph.

The Order was entered on 03/01/18. The Receiver established, by clear and convincing evidence, that the Columbia East Defendants, through its member Kenneth Burnham and their Counsel, received the Order through the Court's electronic filing system by email on 03/01/18. Following receipt and notice of the Order, on 03/01/18, the Columbia East Defendants intentionally and deliberately transferred $171,961.75 from Columbia Park East MHP, LLC's operating account to Columbia Park Water & Sewer System, an entity the Columbia East Defendants argue is outside the Receivership. Following receipt and notice of the Order, on 03/05/18, the Columbia East Defendants intentionally and deliberately transferred an additional $156,616.50 from Columbia Park East MHP, LLC's operating account to Columbia Park Water & Sewer System. In the year prior to these two transfers, which totaled $329,578.25, no other similar transfers were made by and between the entities.

Accordingly, the Columbia East Defendants are hereby ordered to return $329.578.25 to Columbia Park East MHP, LLC's operating account currently under the

control of the duly appointed Receiver by 9:00 a.m., Wednesday, July 18, 2018. Failure to comply with or in any way circumvent this Court's Order shall result in issuance of arrest warrants for Defendants Kenneth Burnham, Robert C. Morgan, George DaGraca, James A. Martin, and Steven J. Gordon.

It is so ordered:

Judge Carolyn B. Friedland

7-10-18
Date

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1,	Case No. CV-17-887110
	Judge Carolyn B. Friedland

Plaintiff

Vs.

Columbia Park East MHP, LLC, et al,

Defendants.

RECEIVER'S SECOND *EMERGENCY* MOTION TO SHOW CAUSE

M. Shapiro Real Estate Group Ohio LLC, acting in its capacity as Receiver ("Receiver"), by and through undersigned counsel and pursuant to the Court's March 1, 2018 Order Appointing Receiver ("Receivership Order") moves the Court for an Order that Defendants Columbia Park East MHP LLC; Columbia MHC East, LLC; Columbia Park Manufactured Home Sales, Inc.; Robert D. Morgan; George Dagaraca; James A. Martin; Steven J. Gordon (collectively "Columbia Park Defendants"); Kenneth C. Burnham ("Burnham") and their respective property manager(s), managers, members, agents and employees, representatives show cause why Columbia Park Defendants and Defendant Burnham should not be held in contempt for violating the Receivership Order

Basis for this Motion is more fully explained in the attached and incorporated Brief in Support.

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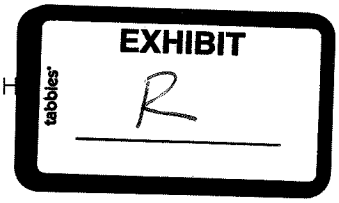

Respectfully submitted,

PLUNKETT COONEY

/s/ David L. Van Slyke
Jeanna M. Weaver (0075186)
David L. Van Slyke (0077721)
300 East Broad Street, Ste. 590
Columbus, Ohio 43215
Tel: (614) 629-3000; Fax: (614) 629-3019
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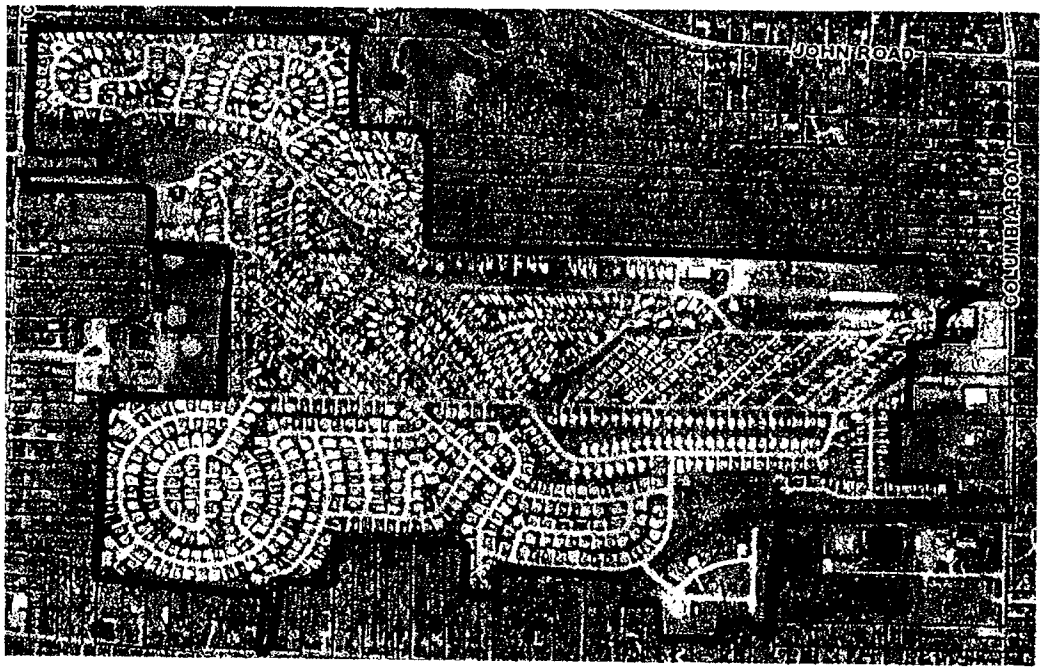
dvanslyke@plunkettcooney.com
Counsel for M. Shapiro Real Estate Group Ohio LLC

BRIEF IN SUPPORT

I. Relevant Facts

Trailer Park, Inc. ("TPI") is the former owner of the manufactured home park commonly known as Columbia Park ("Columbia Park"), shown below and located at 7100 Columbia Road, Olmsted Township, Ohio; Cuyahoga County PPN: 020-23-003, 262-11-001, and 262-14-050 ("Real Estate"):



When TPI sold Columbia Park to Columbia MHC East, LLC ("Columbia East") in 2001, the

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on-site waste water treatment plant ("WWTP") was a fixture to the real property that was conveyed with title to the Real Estate. Indeed, the cover letter and application of Defendant Columbia East,[1] in seeking approval from the Ohio Environmental Protection Agency ("OEPA") and Public Utilities Commission of Ohio ("PUCO") to operate the WWTP, provides:

Cover Letter

Dear Ms. Daly;

Please find enclosed our application for Certificate of Public Convenience and Necessity and Approval of Rates for Columbia Park Water/Sewer system, wholly owned by Columbia MHC East LLC.

Columbia MHC East LLC. purchased the 1096 unit mobile home park, and shopping center in July 2001. In addition a medical building and gas station rely on the water and sewer plant which are the subject of this application.

[1]It is worth noting that Defendant Columbia East disclosed its sole member as being MHP Acquirers, LLC, whose members are the guarantors on the Note and Mortgage at issue in this case:

COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

EXHIBIT 1

The sole shareholder of Columbia Park Water & Sewer System is Columbia East MHC, LLC, which is a New York State LLC licensed to transact business in Ohio. The sole shareholder of Columbia East MHC, LLC is MHP Acquirers, LLC, is a New York State LLC. The shareholders of MHP Acquirers, LLC are as follows;

There are less than 10 shareholders in the LLC.

Shareholder	Address	Percent ownership
Kenneth Burnham	70 Old Stonefield Way, Pittsford, NY 14534	20%
Robert Morgan	7 Chelsea Park, Pittsford, NY 14534	20%
Steven Gordon	150 Buckland Ave., Rochester, NY 14618	20%
James Martin	87 Sycamore Ridge, Honeoye Falls, NY 14472	20%
George DaGraca	43 Misty Pines, Fairport, NY 14450	20%

All of the above individuals are Members with equal authority to bind and/or act on behalf of MHP Acquirers, LLC.

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Application

DESCRIPTION OF PUBLIC CONVENIENCE TO BE SERVED

The Columbia Park water and sewer plant has been in service for many years, and was developed starting in the 1950's to satisfy the demand generated from a 55+ age mobile home park known as Columbia Park. The address of the system is at 7100 Columbia Road, Olmstead Township, Ohio. The mobile home park has grown to 1,060 units as of September 2001, with an additional 36 lots completed for a final built out total of 1,096. In addition to these residential customers the water and sewer plant services a shopping center, medical building, trolley museum, and gas station. Usage by these additional customers is primarily residential in nature.

Water is drawn from the City of Cleveland Division of Water and distributed through the current private facilities to the above referenced properties.

The sewer plant has a 250,000 gal/day capacity and services these properties through the privately owned collection system.

There is a present and continuing need for the existing plant to continue to provide service in the areas it has serviced for many years. There are 1,096 senior citizens who presently are served by this system and rely on it for the continuing habitability of their premises. In addition tenants of the shopping plaza, medical building, and gas station, also rely on this system. There are no other alternatives existing or planned in the area.

When the mobile home park and shopping center were purchased by Columbia East MHC LLC (the Applicant here), it was agreed that these new owners would apply for a Certificate of Public Convenience and Necessity, in order that the system would be in compliance with all PUCO Rules and Regulations, and continue to service the area.

See Exhibit A relevant portions of Application Package. In sum, Defendant Columbia East never represented to OEPA or PUCO in seeking permitting from the WWTP that Defendant Columbia East considered the WWTP to be separate and distinct from the Real Estate.

On or about April 30, 2007, Defendant Columbia East, as part of a refinance, conveyed its interest in the Real Estate to Defendants Columbia Park East MHP LLC ("Columbia Park East") and Columbia Far West, LLC ("Columbia West") via Warranty Deed filed for record as Cuyahoga County Instrument No. 200705030084. *See Exhibit B Warranty Deed.* Despite OEPA's requirement that the WWTP permit be transferred or assigned to the new owner or successor, Defendant Columbia East never transferred the OEPA permit to Defendants Columbia Park East and Columbia West when conveying its interest in the Real Estate. *See Exhibit C (noting that first page of the original permit to Columbia East was issued on April 2, 2000 and effective May 1, 2000) and Exhibit D current permit.* Consistent with the belief that the WWTP was a fixture to the Real Estate, the Mortgage executed by Defendants

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Columbia Park East[2] and Columbia West and the Fixture Filing explicitly stated that the security interests relative to the $55,000,000.00 loan secured the WWTP.

Columbia Park at all times relevant, has been managed by non-party KDM Development Corp. ("KDM")[3] and/or non-party Columbia-Brook Park Management, LLC ("CBPM"). *See Exhibit E Application of Employer Identification Number*[4] *and Exhibit F March 9, 2018 Letter.* Defendant Burnham, a guarantor of the $55,000,000.00 Note at issue, is the Chief Executive Officer of KDM and identifies himself as a member of CBPM. *See Complaint, ¶23; Exhibit F.*[5] As acknowledged by Defendant Burnham in his Motion to Dismiss or Stay filed on November 16, 2017, the WWTP is the subject of an on-going enforcement action by OEPA.[6] *See Motion to Dismiss or Stay.* OEPA, via letter dated October 4, 2017, and attached as Exhibit 'A' to Defendant Burnham's Motion, cites on-going violations of environmental

---

[2]The Mortgage was executed by Defendant Robert D. Morgan on behalf of Defendant Columbia Park East.

[3]KDM's website, www.kdmdevelopment.com, lists Columbia Park as an asset that KDM manages.

[4]Noting that the principal of Columbia Park East is shown as being Columbia East on IRS tax forms:

1* Legal name of entity (or individual) for whom the EIN is being requested Columbia Park East MHP LLC
2 Trade name of business (if different from name on line 1)
4a* Mailing address (room, apt., suite no. and street, or P.O. box) 1170 Pittsford Victor Road
4b* City, state, and ZIP code Pittsford NY 14534 -
6* County and state where principal business is located County Monroe State NY
7a Name of principal officer, general partner, grantor, owner, or trustor Columbia MHC East LLC

[5]The letter, although dated March 9, 2017, was, in fact, drafted March 9, 2018.

[6]Per R.C. § 4781.38(A)(1) and (4) (formerly § 3733.10), Defendant Columbia Park East and/or its management company is statutorily obligated to (1) comply with the requirements of all applicable building, housing, health, and safety codes which materially affect health and safety ... and (4) maintain in good and safe working order and condition all ....septic systems, sanitary and storm sewers... that are supplied or required to be supplied by the park operator.

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laws at Columbia Park and a proposed civil penalty of $252,875.00 relative to Defendant Columbia East's failure to remedy the environmental issues affecting Columbia Park, the Real Estate and potentially adjoining parcels that are served by the WWTP. *See Exhibit A attached to Motion to Dismiss of Stay.*[7] More troubling, as alleged in Plaintiff's Complaint and First Amended Complaint herein, is the fact that the on-going violations necessitate repairs to the WWTP that may cost upwards of $4,500,000.00 in order to have the system comply with OEPA regulations. *Complaint, ¶43-44.*

Plaintiff commenced this action on October 9, 2017, as a result of defaults under the aforementioned $55,000,000.00 Note, Mortgage and other loan documents. *See generally Complaint.* This Court entered the Receivership Order on March 1, 2018, which provides:

> 1.1 As of the Effective Date, the Receiver is authorized to directed to take immediate possession and full control of the Receivership Property and ... to take such other actions as the Receiver deems reasonable and appropriate to take possession of, to exercise full control over, to prevent waste, and to preserve, manage, secure and safeguard the Receivership Property.
>
> 1.5 The Borrowers and their employees, officers, members, or directors are prohibited from removing any material personal property belonging to the Borrowers from the Receivership Property, or diverting any Income which is collateral for Plaintiff's loan.
>
> 7.1 "Receivership Property" means and includes:
>
> (a) The Mortgaged Property.
>
> (b) All tangible and intangible property, including intellectual property, used or useable in connection with the operations of the Real Estate....
>
> ***
>
> (g) All fixtures, trade fixtures or tenant improvements of every kind or nature located in or upon or attached to or used or intended to be used in connection with the operation of the Real Estate and any buildings, structures or improvements located on the Real Estate ....

[7]The environmental issues facing Columbia Park and the Real Estate are not unfamiliar to Defendant Burnham and KDM. Indeed, KDM manages a similar manufactured home park, Oak Hills Mobile Home Community, LLC ("Oak Hills"), in Franklin County, Ohio. Oak Hills is alleged in Franklin County Court of Common Pleas Case No. 2005 CV 10023, styled *G. ScottCo Investment, et al. v. Franklin County, et al.*, to have violated a December 27, 2016 Consent Order. *See Exhibit G Consent Order/Motion Briefs.* Interestingly, as with the matter *sub judice*, the PUCO permittee is a different entity (Oak Hills MHC, LLC) than the record owner of the property (Oak Hills Mobile Home Community, LLC).

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(h) All permits, licenses, other contracts, and other intangible property pertaining to the Mortgaged Property and the operations of the Mortgaged Property.

8.1 ...The Borrowers are enjoined from retaining a management firm for the Receivership Property or from otherwise interfering with the Receiver's retention of a management firm for the Receivership Property.

14.7 The Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order, and all those having claims against the Receivership Property, who receive notice of this Order, are enjoined from and shall not:

(c) Terminate Any Utility Service. Terminate or withhold any .... other utility service supplying the Receivership Property....or otherwise interfere with the continued operations of the Receivership Property,

(d) Interfere with the Receiver. Directly or indirectly intentionally, in bad faith, interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management... of the Receivership Property.

(f) Impair the Preservation of the Receivership Property. Intentionally, in bad faith do any act which will, or that will tend to impair, defeat, divert, prevent or prejudice the preservation of the Receivership Property, including the Income, or the preservation of Plaintiff's interest in the Receivership Property and the Income.

Consistent with the Receivership Order, Receiver, via letter dated March 8, 2018, advised Columbia Park tenants, as follows:

We would like to inform you of a recent change at Columbia Park. On March 1, 2018, M. Shapiro Real Estate Group Ohio LLC ("Receiver") was appointed as the receiver for Columbia Park by the Court of Commons Pleas for Cuyahoga County, Ohio pursuant to an Order Appointing Receiver (the "Order"). A full copy of the Order is available for your review upon request.

We are pleased to inform you that your home site is secure, you do not have to vacate the premises as a result of the Order, and the community will continue to operate as it previously has on a daily basis. Columbia Park will now be managed by the Receiver, who has more than thirty-five (35) years of experience in the manufactured housing industry, and is looking forward to providing community management service to you on behalf of Columbia Park.

Please continue to forward all rent payments and correspondence to the community office address set forth below; or you may continue to hand deliver your rent at the office. If you have any concerns regarding Columbia Park, or for any other resident relation or operations questions, including, but not limited to, common area

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maintenance and/or emergencies, you should contact the onsite office. All onsite staff, including the Property Manager, Ildi Gristanti, remain the same.

Rent payments should be made payable to: Columbia Park
And mailed or hand delivered to: 7100 Columbia Road
Olmsted Township, OH 44138

Pursuant to the Order, all decisions relating to the management of Columbia Park will be made by the Receiver and not by the owners of Columbia Park or any agent previously authorized by the owners of Columbia Park to manage the communities and collect the rents. Furthermore, any rents paid to any person or office other than that noted above will not be credited to your account.

Thank you in advance for your patience during this transition. We appreciate your business and assure you that we will do our best to provide you with the highest standard of service that you deserve.

See Exhibit H March 8, 2018 Letter.

In the afternoon of March 9, 2018, Defendant Burnham, presumably in response to Receiver's notice to Columbia Park's tenants, fired-off two letters.

First, Defendant Burnham, in his capacity as a Member of Defendant Columbia East, wrote PUCO and counsel for various parties in this action, stating as follows:

I am requesting that PUCO issue an Order enjoining and preventing the M Shapiro Group, Ohio from interfering with the operations of the CPWSS.

The M Shapiro Group is attempting to interfere with our operations, our Tariff, collecting monies which have been made out to and are due to the CPWSS, and have starting operating the sewer plant without a certificate from PUCO, or permit from NPDES or OEPA in violation of Ohio law,

Section 4933.25, Revised Code requires "waterworks companies and sewage disposal companies to obtain a certificate from this commission before constructing, installing, or operating a waterworks or sewage disposal company."

Unfortunately, the mobile home park has gone into receivership due to a maturity default on the mortgage.

Columbia MHC East, LLC dba CPWSS was not a borrower or joinder party in this mortgage, nor was the collateral owned by CPWSS subject to the lien of the mortgage. (emphasis added)

***

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> The service area for the CPWSS is larger than just the mobile home park itself, as noted above; under RE:
>
> M Shapiro's actions effect areas outside the encumbered assets of the mobile home park.
>
> Please tell this Company to cease and desist, and Order from the Court of Common Pleas is of no effect with respect to a PUCO regulated utility.

See Exhibit I E-mail (attaching March 9, 2018 Letter). Defendant Burnham's Letter, in addition to failing to include a copy of the Receivership Order and/or note that Receiver is statutorily authorized to steps into the shoes of a public utility per R.C. § 4905.02, neglected to advise PUCO that the Mortgage and Fixture Filing both purport to secure the WWTP, that all of the named-entities in this action ultimately have common ownership and that the WWTP is the subject of on-going environmental violations being levied by OEPA.

Second, Defendant Burnham sent a letter to Columbia Park tenants indicating that they were to continue to pay Columbia Park Water and Sewer Bills as normal (i.e. to CBPM), but directed checks be sent to a new address. *See Exhibit J March 9, 2018 Letter.* Defendant Burnham's second letter, which obviously insinuates to the tenants that Receiver has no control over Defendant Columbia East and/or the WWTP, mirrors a March 12, 2018 letter from counsel for Columbia Park Defendants to the undersigned in which counsel claims that "the waste water treatment facility is owned and operated by [Defendant Columbia East]," and that "any proposed operation of the waste water treatment facility would need to be approved by PUCO." *See Exhibit K March 12, 2018 Letter.*

As will be more fully set forth below, Defendants Burnham and Columbia East's position that Receiver lacks authority over the WWTP is not supported by the Receivership Order and applicable real estate law, while begging the obvious question: if Defendant

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Columbia East wants to continue to assert an ownership interest in the WWTP so as to have tenants pay CBPM separately from their rent payments to the Receiver, why hasn't Defendant Columbia East rectified the six-year old environmental issues? Put another way, Defendant Columbia East and its principals want to have their cake and eat it too by continuing to receive payments from Columbia Park's 1500 tenants, yet wipe their hands clean, literally and figuratively, of any obligation to fund the necessary repairs to the WWTP in order to bring the system into compliance with applicable OEPA regulations.

II. Law & Argument

A. Receiver is Entitled to an Order upon Columbia Park Defendants and Defendant Burnham to Show Cause Why They Should Not Be Held in Contempt of Court for Violating the Receivership Order.

R.C. §2705.02 provides this Court with authority to hold Columbia Park Defendants and Defendant Burnham in contempt for failure to comply with the Receiver Order:

> A person found guilty of any of the following acts may be punished as for contempt . . . Disobedience of, or resistance to, a lawful writ, process, order, rule, judgment or command of a court or officer...

Ohio law recognizes receivers to be officers of the court. *Hummer v. Hummer*, 2011-Ohio-3767, 2011 WL 3275614 ¶23 (8th Dist. 2011); *PNC Bank, N.A. v. J&J Slyman, L.L.C.*, 2015-Ohio-2951, 2015 WL 4506915 ¶35-36 (8th Dist. 2015). Additionally, although R.C. §2705.02 provides statutory authority to punish contempt, "a common pleas court has both inherent and statutory power to punish contempts" through contempt proceedings. *Bert v. Dodge*, 65 Ohio St. 3d 34, 35 (1992). The primary purpose of contempt proceedings is "to secure the dignity of the courts and the uninterrupted and unimpeded administration of justice." *Denovcheck v. Board of Trumbull County Comm'rs*, 36 Ohio St.3d 14, 16 (1988).

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Civil contempt is defined as that which exists in failing to do something ordered to be done by the court in a civil action for the benefit of the opposing party therein. *Sancho v. Sancho*, 114 Ohio App. 3d 636, 642 (3d Dist. 1996). Contemptuous conduct is further defined as, that "which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions." *Denovchek*, 36 Ohio St. 3d at 15. Contempt may be categorized as either direct or indirect. *Segovia v. Likens*, 179 Ohio App. 3d 256, ¶22 (10th Dist. 2008). Indirect contempt occurs outside the presence of the court and demonstrates a lack of respect for the court or its lawful orders including "[d]isobedience of, or resistance to, a lawful writ, process, order, rule, judgment, or command of a court or officer" constitutes indirect contempt. R.C. §2705.02(A).

Columbia Park Defendants and Defendant Burnham's claim that the WWTP is not subject-to the Receivership Order is meritless for at least two reasons.

1. The WWTP is Subject-To Plaintiffs Mortgage and Fixture Filing.

Columbia Park Defendants and Defendant Burnham's claim that the WWTP is not subject to Plaintiff's Mortgage and/or Fixture Filing is not accurate.

The WWTP is located within the Real Estate. Pursuant to the terms of the Mortgage (i.e. the definition of Mortgaged Property specifically includes sanitary sewer facilities within the Real Estate)[8] and Fixture Filing,[9] the WWTP is a fixture to the Real Estate that is subject-to Plaintiff's Mortgage by operation of law. *See e.g. Bank of New York Mellon v. Ferrari*, 2015 WL 1319135, 2015-Ohio-1116 (7th Dist. 2015). Receiver, consistent with the court-imposed obligation under the Receivership Order, must maintain the Real Estate and

[8]See Exhibit C Mortgage attached to Plaintiff's Amended Complaint herein.

[9]See Exhibit D Mortgage attached to Plaintiff's Amended Complaint herein.

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"all fixtures... of every kind or nature located in or upon or attached to or used or intended to be used in connection with the operation of the Real Estate and any buildings, structures or improvements located on the Real Estate." *See Receivership Order, §7.1(a) and (e); R.C. § 2735.04(B)(2)and (8).* As such, any demand to Columbia Park's tenants to pay water/sewer to someone other than Receiver, is a violation of the Receivership Order.

2. PUCO Has No Jurisdiction over the Receivership and/or WWTP.

Defendant Burnham's presupposition that PUCO has jurisdiction over the Receiver's control over the WWTP is meritless.

The General Assembly enacted R.C. § 4901.01 *et seq.* to regulate the business activities of public utilities and created PUCO to administer and enforce these provisions. *Kazmaier Supermarket, Inc. v. Toledo Edison Co.*, 61 Ohio St.3d 147, 150 (1991). R.C. § 4905.26 provides that PUCO shall hear complaints filed against public utilities alleging that:

> any rate, fare, charge, toll, rental, schedule, classification, or service, or any joint rate, fare, charge, toll, rental, schedule, classification, or service rendered, charged, demanded, exacted, or proposed to be rendered, charged, demanded, or exacted, is in any respect unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, or that any regulation, measurement, or practice affecting or relating to any service furnished by the public utility, or in connection with such service, is, or will be, in any respect unreasonable, unjust, insufficient, unjustly discriminatory or unjustly preferential.

However, the broad jurisdiction of PUCO over service-related matters does not affect the basic jurisdiction of the court of common pleas in other areas. *Corrigan v. Illuminating Co.*, 122 Ohio St.3d 265 (2009); citing *State ex rel. Ohio Edison Co. v. Shaker*, 68 Ohio St.3d 209, 211 (1994). Indeed, if the issue involving does not involve whether PUCO's administrative expertise and/or the act complained of constitute a practice normally authorized by the

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utility, the matter is not within PUCO's jurisdiction. *Id.*; see *Berry v. Ohio Edison Co.*, 70 N.E.3d 634 (9th Dist. 2016).

Defendant Burnham's March 9, 2018 letter and Defendant Columbia East's March 12, 2018 letter insinuates that Receiver's control over the Real Estate necessarily involves PUCO. It does not. Defendant Columbia East remains the OPEA permittee, while the Receiver, in taking over possession and control of Columbia Park and Real Estate, (a) is not changing the operator (Mark Kalinowski) of the WWTP, (b) is not seeking to modify service, and (c) is not seeking the review, suspension, delay or approval of applicable tariffs related to the WWTP. Accordingly, there is no claim that is within PUCO's exclusive jurisdiction.[10]

III. Conclusion

The issue for the Court is straightforward. The Receivership Order directs Receiver to maintain the Real Estate, while prohibiting Columbia Park Defendants and Defendant Burnham from interfering with utility service. Despite the clear edict from the Court in the Receivership Order and Receiver's corresponding notice to Columbia Park tenants, Defendant Burnham has improperly directed the tenants to pay water/sewer fees to CBPM and for such payments to be sent to an address outside the Receiver's control. Defendant Burnham's notice not only violates the Receivership Order but, as noted above, begs the question of what Columbia Park Defendants and Defendant Burnham intend to do with the tenants water/sewer payments when Columbia Park Defendants and Defendant Burnham have allowed the WWTP to fall into such a state of disrepair that the health and wellness of

[10]The undersigned spoke with PUCO representatives on Monday, March 12, 2018. PUCO indicated that it may seek to intervene in this action merely to monitor the status of the litigation, but that PUCO's position is that this court has jurisdiction based, in part, on the definition of "public utility" found in R.C. § 4905.02 includes receivers.

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Columbia Park's 1500 senior citizens, as well as surrounding property owners, is at risk. Put another way, it would be one thing for Columbia Park Defendants and Defendant Burnham, by and through CBPM, to seek court-approval to continue collecting water/sewer payments if they were actually maintaining the WWTP in compliance with OEPA regulations. Having failed to maintain the WWTP, let alone provide any evidence to fund necessary repairs and/or the proposed OEPA fine, it is incongruous for Columbia Park Defendants and Defendant Burnham to continue to collect water/sewer payments.

WHEREFORE, Receiver, who will be maintaining a separate account for water/sewer funds, moves the Court to enter an Order upon Columbia Park Defendants and Defendant Burnham to show cause why they should not be held in contempt for violating the Receivership Order.

Respectfully submitted,

PLUNKETT COONEY

/s/ David L. Van Slyke
Jeanna M. Weaver (0075186)
David L. Van Slyke (0077721)
300 East Broad Street, Ste. 590
Columbus, Ohio 43215
Tel: (614) 629-3000; Fax: (614) 629-3019
jweaver@plunkettcooney.com
dvanslyke@plunkettcooney.com
Counsel for M. Shapiro Real Estate Group Ohio LLC

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CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing pleading was sent via regular U.S. Mail, postage prepaid, on this 22nd day of March 2018 to:

John W. Monroe
Kathryn E. Weber
Brandon P. Friesen
North Point Tower
1001 Lakeside Ave., Ste. 1400
Cleveland, Ohio 44114
Counsel for Defendants Columbia Park East MHP LLC; Columbia MHP East LLC; Columbia Park Manufactured Home Sales, Inc.; Robert C. Morgan; Gorge Dagraca; James A. Martin; Steven J. Gordon

Mark Rodio
200 Public Square, Ste. 3000
Cleveland, Ohio 44114
Counsel for Defendants Columbia Far West, LLC and Columbia West Investors, LLC

AAA Electric Service Inc.
c/o W. James Mayer, Jr., Statutory Agent
112 Rebecca Land
Brunswick, Ohio 44212
Defendant

Gerald E. Brookins Museum of Electric Railways, Inc.
7100 Columbia Road
Olmsted Township, Ohio 44138
Defendant

Clear Chanel Outdoor
c/o CT Corporation System, Statutory Agent
4400 Easton Commons Way, Ste. 125
Columbus, Ohio 43219
Defendant

Robert C. Reed
33977 Chardon Road
Willoughby Hills, Ohio 44094
Counsel for Defendant Olmsted Cable Company dba Cox Communications, c/o Robert C. Reed, Statutory Agent

Richard A. Baumgart
55 Public Square, Ste. 2100
Cleveland, Ohio 44113
Counsel for Defendant Olmsted Cable Company dba Cox Communications

Kenneth C. Burnham
70 Old Stonefield Way
Pittsford, New York 14534
Defendant

Hannah F. G. Singerman
310 W. Lakeside Ave., 3rd Floor
Cleveland, Ohio 44113
Counsel for Cuyahoga County Treasurer

John J. Rutter
222 South Main Street
Akron, Ohio 44308
Counsel for Plaintiff

/s/ David L. Van Slyke

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Columbia Park Water/Sewer System
7100 Columbia Road
Olmstead Township, Ohio 44138
440-235-5300 Local Office
716-586-2828 New York Office
716-586-8582 (Fax)

RECEIVED
OCT 3 2001
DOCKETING DIVISION
PUCO

September 24, 2001

Sue Daly
Public Utilities Commission of Ohio
180 East Broad St.
Columbus, Ohio 43215

01-2567-WS-ACE
89-7049-WS-TRF

RE: Certificate of Public Convenience and Necessity

Dear Ms. Daly;

Please find enclosed our application for Certificate of Public Convenience and Necessity and Approval of Rates for Columbia Park Water/Sewer system, wholly owned by Columbia MHC East LLC.

Columbia MHC East LLC. purchased the 1096 unit mobile home park, and shopping center in July 2001. In addition a medical building and gas station rely on the water and sewer plant which are the subject of this application.

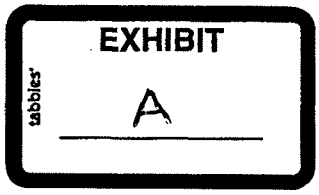
The overriding motivation for this application is to comply with current PUCO regulations. In addition to the mobile home park, the water and sewer system at Columbia Park currently services a shopping center, medical building, trolley museum, and gas station.

Rates are proposed such that current operating costs are covered and an 8.0% return on the depreciated value of the plant in service is returned to the investors.

Please let me know what additional steps I might be taking at this time in order to facilitate your review of this application..

Sincerely,

Kenneth C. Burnham
Member



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Before
The Public Utilities Commission of Ohio

In the Matter of the Application of Columbia MHC East, LLC d/b/a Columbia Park Water/Se
For a "Certificate of Public Convenience and Necessity" for a waterworks company and/or sewage Systen
disposal system company in the Olmstead (Area) county of Cuyahoga.

Applicant respectfully states:

(A) That ~~he/she~~ (it) is (an individual, a partnership, or a ~~corporation~~ LLC) and proposes to engage in the business of constructing, maintaining, and operating a waterworks system and/or sewage disposal system rendering service in the area or areas in Olmstead townships in Cuyahoga counties, Ohio as shown and delineated on the attached plat or map.

the applicant has; will have, its principal place of business (main office) at
642 Kreag Road
(street)
Pittsford, NY 14534
(village or city)
Monroe NY
(county) (state)

It has, will have, a branch office at
7100 Columbia Road
(street)
Olmstead Township
(village or city)
Cuyahoga OH 44138
(county) (state)

at which office customers may make requests for service, pay bills, file complaints, and transact any business they may have with the company as fully as they could do so at the company's main office.

(B) That applicant is making application for a "Certificate of Public Convenience and Necessity" to operate a waterworks system and/or sewage disposal system pursuant to section 4933.25 of the Revised Code.

(C) That exhibits, as required by rule 4901:1-15-05 of the Administrative Code, are furnished with, and made a part of this application for one or more certificates to construct, operate, and maintain a waterworks system and/or sewage disposal system. If a hearing is held, All the exhibits will be identified and substantiated at the hearing by a qualified witness who will state under oath that all or part of the exhibits were prepared by him/her or under his/her supervision and direction, and that the data contained in the exhibits are true and factual to the best of his/her knowledge and belief.

(D) That a statement is included in the application describing the public convenience to be served by means of granting a "Certificate of Public Convenience and Necessity" to applicant.

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(E) Therefore, applicant requests that a "Certificate of Public Convenience and Necessity" be granted applicant to construct and to operate a waterworks company and/or sewage disposal system company.

&

Applicant or Attorney for Applicant

70 Old Stonefield Way
Pittsford, NY 14534

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COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

DESCRIPTION OF PUBLIC CONVENIENCE TO BE SERVED

The Columbia Park water and sewer plant has been in service for many years, and was developed starting in the 1950's to satisfy the demand generated from a 55+ age mobile home park known as Columbia Park. The address of the system is at 7100 Columbia Road, Olmstead Township, Ohio. The mobile home park has grown to 1,060 units as of September 2001, with an additional 36 lots completed for a final built out total of 1,096. In addition to these residential customers the water and sewer plant services a shopping center, medical building, trolley museum, and gas station. Usage by these additional customers is primarily residential in nature.

Water is drawn from the City of Cleveland Division of Water and distributed through the current private facilities to the above referenced properties.

The sewer plant has a 250,000 gal/day capacity and services these properties through the privately owned collection system.

There is a present and continuing need for the existing plant to continue to provide service in the areas it has serviced for many years. There are 1,096 senior citizens who presently are served by this system and rely on it for the continuing habitability of their premises. In addition tenants of the shopping plaza, medical building, and gas station, also rely on this system. There are no other alternatives existing or planned in the area.

When the mobile home park and shopping center were purchased by Columbia East MHC LLC (the Applicant here), it was agreed that these new owners would apply for a Certificate of Public Convenience and Necessity, in order that the system would be in compliance with all PUCO Rules and Regulations, and continue to service the area.

The PUBLIC CONVENIENCE will be served to have the existing plant continue to provide service in the areas it has serviced for many years at rates which will be sufficient to cover current operating costs, and offer a reasonable return to its investors. The PUBLIC CONVENIENCE will also be served to have the existing facilities comply with current PUCO rules and regulations

A copy of this filing has been served upon the OEPA at Columbus, Ohio

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COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

EXHIBIT 1

The sole shareholder of Columbia Park Water & Sewer System is Columbia East MHC, LLC, which is a New York State LLC licensed to transact business in Ohio. The sole shareholder of Columbia East MHC, LLC is MHP Acquirers, LLC, is a New York State LLC. The shareholders of MHP Acquirers, LLC are as follows;

There are less than 10 shareholders in the LLC.

Shareholder	Address	Percent ownership
Kenneth Burnham	70 Old Stonefield Way, Pittsford, NY 14534	20%
Robert Morgan	7 Chelsea Park, Pittsford, NY 14534	20%
Steven Gordon	150 Buckland Ave., Rochester, NY 14618	20%
James Martin	87 Sycamore Ridge, Honeoye Falls, NY 14472	20%
George DaGraca	43 Misty Pines, Fairport, NY 14450	20%

All of the above individuals are Members with equal authority to bind and/or act on behalf of MHP Acquirers, LLC.

Disclosure of interests in other water works and/or sewage disposal system;

Kenneth Burnham, Steven Gordon, James Martin, and George DaGraca have any interest as unit holders and Members of Royal Palms MHP, LLC, d/b/a Royal Palms Water and Sewer system. This water works and sewage disposal system is a regulated public utility in the State of North Carolina, serving 191 residential units with both water and sewer service.

No other person, firm or corporation purports to guarantee the obligations of the applicant, and no developer is involved in the area where the Certificate of Public Convenience and Necessity is proposed.

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COLUMBIA MHC EAST, LLC – d/b/a Columbia Park Water & Sewer System
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

EXHIBIT 2

Corporate papers, D/B/A & Certificate of authority to transact business in Ohio

The sole shareholder of Columbia Park Water & Sewer System is Columbia East MHC, LLC, which is a New York State LLC licensed to transact business in Ohio. The sole shareholder of Columbia East MHC, LLC is MHP Acquirers, LLC, is a New York State LLC.

Applicant hereby certified that thus Exhibit 2 is a true and accurate copy of the organization documents and Certificate of Authority to transact business in Ohio.

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CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY - 14
DEED 05/03/2007 10:47:40 AM
200705030084

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS THAT, **COLUMBIA MHC EAST, LLC** and **COLUMBIA WEST INVESTORS, LC** of 642 Kreag Road, Pittsford, New York 14534, jointly and severally, the Grantors, who claim title by or through the instrument filed for record June 26, 2001 in Instrument Nos. 200106260771 and 200106260772 in the County Recorder's Office in Cuyahoga County, State of Ohio, for the consideration of Ten Dollars ($10.00), and other valuable consideration received to their full satisfaction of: **COLUMBIA PARK EAST MHP LLC**, whose tax mailing address is 1170 Pittsford Victor Road, Pittsford, New York 14534 and **COLUMBIA FAR WEST, LLC**, whose tax mailing address is 484 Viking Drive, Suite 105, Virginia Beach, Virginia 23452, jointly and severally, the Grantee, do give, grant, bargain, sell, and convey unto the said Grantee, its successors and assigns, the premises described on Exhibit A which is attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, its successors and assigns, forever; and,

Grantors do for themselves and their heirs and assigns, covenant with the said Grantee, its successors and assigns, that at and until the execution of these presents, they are well seized of the above-described premises, have a good and indefeasible estate in Fee Simple, and have good right to bargain and sell the same in manner and form as above written, and the same is free from all encumbrances whatsoever, save and except building and use restrictions, easements and rights of way of record, if any, zoning and other governmental regulations, and real estate taxes and assessments, if any, both general and special, to be prorated to the date of closing, and that they will warrant and defend said premises, with the appurtenances thereunto belonging, to the said Grantee, its successors and assigns, against all lawful claims and demands whatsoever subject to the above noted exceptions.

EXHIBIT
Tabbies
B

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IN WITNESS WHEREOF, Grantors have hereunto set their hands, this 26th day of April, 2007.

COLUMBIA MHC EAST, LLC
By: MHP ACQUIRERS, LLC
Sole Member of Columbia MHC East, LLC

By: _____
Robert C. Morgan, Member

STATE of New York)
) ss:
COUNTY of Monroe)

The foregoing instrument was acknowledged before me, a Notary Public, in and for said County and State by Robert C. Morgan, who stated that the signing of this instrument is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Fairport, this 27th day of April, 2007.

Kyle L. DiStefano
Notary Public

KYLE L. DISTEFANO
Notary Public, State of New York
County of Monroe, Reg#01DI6028169
Commission Expires July 26, 2019

COLUMBIA WEST INVESTORS, LC
By: COMPANY MANAGER, LC
Manager of Columbia West Investors, LC

By: _____
R. Braxton Hill, III, Manager

STATE of Virginia)
) ss:
COUNTY of Virginia Beach)

The foregoing instrument was acknowledged before me, a Notary Public, in and for said County and State by R. Braxton Hill, III, who stated that the signing of this instrument is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Virginia Beach, VA, this 30 day of April, 2007.

_____
Notary Public

Embossed Hereon is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires July 31, 2008
REBEKAH ROACH

This instrument prepared by:

Fix Spindelman Brovitz & Goldman, P.C.
295 Woodcliff Drive, Suite 200
Fairport, New York 14450
(BJF)

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EXHIBIT A

Parcel No. 1 (Columbia Trailer Park)

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

1. Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

2. Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

3. Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

4. Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

5. Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

6. Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

7. Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

8. Thence South 00 deg. 41' 40" East, 832.41 ft. to a corner;

9. Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

10. Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

11. Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

12. Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

13. Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

14. Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

15. Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

16. Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

17. Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

18. Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

19. Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

20. Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

21. Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

22. Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

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23. Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

24. Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

25. Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

26. Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 80 ft. wide;

27. Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

28. Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

29. Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

30. Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

31. Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

32. Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

33. Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

34. Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

35. Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 80 ft. wide;

36. Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

37. Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

38. Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

39. Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

40. Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

41. Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

42. Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

43. Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

44. Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

45. Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

46. Thence South 00 deg. 28' 00" East, 144.08 ft. to a point;

47. Thence North 89 deg. 27' 10" East, 231.71 ft. to a point;

48. Thence South 53 deg. 22' 33" West, 217.76 ft. to a point;

49. Thence South 01 deg. 44' 34" East, 145.00 ft. to a point;

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50. Thence South 43 deg. 30' 43" West, 56.32 ft. to a point;

51. Thence South 88 deg. 46' 00" West, 105.00 ft. to a point;

52. Thence South 01 deg. 44' 34" East, 387.90 ft. to the point of beginning and containing 212.3638 acres of land, according to a survey by Eric Nelson, Registered Ohio Surveyor No. 7348 on January 17, 2000, be the same more or less, but subject to all legal highways.

Parcel No. 2 (Columbia Shops)
Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, at a point distant North 01 deg. 44' 34" West, 235.00 ft. therefrom from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' 00" West, 340.00 ft. to a point;

Thence South 01 deg. 44' 34" East, 65.00 ft., parallel with said centerline of Columbia Road to a point;

Thence South 88 deg. 46' 00" West, 175.00 ft. to a point;

Thence North 01 deg. 44' 34" West, 215.00 ft., parallel with said centerline of Columbia Road to a point;

Thence North 88 deg. 46' 00" East, 105.00 ft. to a point;

Thence North 43 deg. 30' 43" East, 56.32 ft. to a point;

Thence North 01 deg. 44' 34" West, 145.00 ft. parallel with said centerline of Columbia Road to a point;

Thence North 53 deg. 22' 23" East, 217.76 ft. to a point;

Thence North 89 deg. 27' 10" East, 191.39 ft. to a point in said centerline of Columbia Road;

Thence South 01 deg. 44' 34" East, 458.83 ft. to the place of beginning containing 4.4318 acres of land according to a survey in December 1991 by Giles Nelson, Ohio Surveyor No. 4630, be the same more or less, but subject to all legal highways.

And further known as being Parcel No. 4 in the Subdivision Plat of Trailer Mart, Inc. as shown by the recorded plat in Volume 266 of Maps, Page 64 of Cuyahoga County Records.

Parcel No. 3 (Lift Station Easement)

A Non-exclusive Easement for the purpose of construction, erection, placement, maintenance and alteration of a sanitary sewer lift station and pump station, as established by instrument recorded in Volume 86-7223, Page 17 of Cuyahoga County Records, and assigned in Cuyahoga County Auditors File Number 200106260775, over the following parcel of land, bounded and described as follows:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio, being known as part of Lot 5, Tract 5 in said Olmsted Township, and more definitely described as follows:

Beginning at the intersection of the centerline of Columbia Road and the line between Olmsted Township Tracts 5 and 7;

Thence South 01 deg. 04' 57" West in the centerline of Columbia Road, a distance of 365.00 ft. to a point;

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Thence North 89 deg. 36' 58" West, a distance of 291.00 ft. to a point, said point is the principal place of beginning;

Thence continuing North 89 deg. 36' 58" West, a distance of 15.00 ft. to a point;

Thence South 01 deg. 04' 57" West, a distance of 110.00 ft. to a point;

Thence South 89 deg. 36' 58" East, a distance of 15.00 ft. to a point;

Thence North 01 deg. 04' 57" East, a distance of 110.00 ft. to the principal place of beginning be the same more or less, but subject to all legal highways.

Parcel No. 4 (Parkway Dr. Easement)

A Non-exclusive Easement for ingress and egress, encroachments and utilities appurtenant to Parcel 1, as established by instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records and amended by instrument recorded as Cuyahoga County Auditor's File Number 200106260770 over the following described property:

Situated in the Township Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Tract No. 7 and bounded and described as follows:

Beginning in the centerline of Columbia Road, 60 ft. wide, distant North 01 deg. 44' 34" West 160.00 ft. from its point of intersection with the Southerly line of said Tract No. 7;

Thence South 88 deg. 46' West, 515.00 ft. to a point in an Easterly line of parcel 8 described in instrument recorded in Volume 92-5575, Page 44 of Cuyahoga County Records;

Thence North 01 deg. 44' 34" West, 60 ft. along said Easterly line of Parcel No. 8 to a point;

Thence North 88 deg. 46' East, 515.00 ft. to a point in said center line of Columbia Road;

Thence South 01 deg. 44' 34" East, 60.00 ft. to the place of beginning containing 0.7094 acres of land be the same more or less but subject to all legal highways.

Parcel No. 5 (Easement for carport and asphalt drive)

A Non-exclusive Easement for carport and asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Auditors File Number 200106260776 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 0' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.18 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.80 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

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Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 62.11 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 47.20 ft. to a point;

Thence South 01 deg. 21' 10" East, 90.07 ft. to a point;

Thence South 88 deg. 38' 50" West, 47.20 ft. to a point;

Thence North 01 deg. 21' 10" West, 90.07 ft. to the principal place of beginning and containing 0.0978 acres of land (4,251 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 6 (Easement for asphalt drive)

A Non-exclusive Easement for asphalt drive appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Auditors File Number 200106260777 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 514.99 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

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Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.30 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road (60 ft. wide);

Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to point;

Thence North 00 deg. 41' 21" West, 381.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to e point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, (60 ft. wide);

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 246.62 ft. to the principal point of beginning of the premises herein described;

Thence North 88 deg. 38' 50" East, 35.58 ft. to a point;

Thence South 01 deg. 21' 10" East, 186.17 ft. to a point;

Thence South 88 deg. 38' 50" West, 35.58 ft. to a point;

Thence North 01 deg. 21' 10" West, 186.17 ft. to the principal place of beginning and containing 0.1521 acres of land (6,625 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 7 (Easement for manufactured homes)

A Non-exclusive Easement for manufactured homes appurtenant to Parcel 1, as established by instrument recorded as Cuyahoga County Auditor's File Number 200106260778 over the following described property:

Situated in the Township of Olmsted, County of Cuyahoga, State of Ohio and known as being "Lot 1" of Plat of Lot Split for Trailer Mart Inc. as recorded in Volume 304, Page 47 of Cuyahoga County Map Records, of part of Original Olmsted Township Lot Nos. 5 and 7, Tract 5 and part of Original Olmsted Tract 7 and bounded and described as follows:

Beginning at a point on the Southerly line of said Tract No. 7 distant South 88 deg. 26' 40" West, 515.00 ft. therein from its point of intersection with the centerline of Columbia Road, 60 ft. wide;

Thence South 88 deg. 26' 40" West, 85.00 ft. along the said southerly line of said Tract No. 7 to a point;

Thence South 00 deg. 49' 46" East, 365.00 ft. to a point;

Thence North 88 deg. 26' 00" East, 294.00 ft. to a point;

Thence South 00 deg. 49' 46" East, 110.00 ft. to a point;

Thence North 88 deg. 26' 40" East, 306.00 ft. to a point on the said centerline of Columbia Road;

Thence South 00 deg. 49' 46" East, 115.25 ft. to a point along said centerline of Columbia Road to a point;

Thence South 88 deg. 26' 40" West, 1,183.43 ft. to a point;

Thence South 00 deg. 41' 40" East, 632.41 ft. to a corner;

Thence South 89 deg. 06' 30" West, 120.00 ft. to a corner;

Thence North 00 deg. 41' 40" West, 30.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 148.20 ft. to a corner;

Thence South 00 deg. 41' 40" East, 130.00 ft. to a corner;

Thence South 89 deg. 06' 30" West, 314.69 ft., passing through the westerly line of said Original Lot No. 5, Tract 5 (O.L. 5) being also the easterly line of said Original Lot 7, Tract 5 (O.L. 7) 64.94 ft. to a point;

Thence North 00 deg. 37' 00" West, 216.05 ft. to a point;

Thence South 89 deg. 09' 46" West, 184.83 ft. to a point;

Thence North 00 deg. 37' 00" West, 133.00 ft. to a point;

Thence North 88 deg. 29' 10" West, 500.32 ft. to a point;

Thence North 00 deg. 37' 00" West, 17.19 ft. to a point;

Thence South 89 deg. 32' 11" West, 193.84 ft. to a point;

Thence South 01 deg. 42' 50" East, 152.29 ft. to a point;

Thence South 89 deg. 32' 11" West, 150.00 ft. to a point;

Thence North 01 deg. 42' 50" West, 285.91 ft. to a point;

Thence North 89 deg. 43' 30" West, 658.12 ft. to a point;

Thence South 00 deg. 41' 21" East, 264.24 ft. to a point;

Thence South 89 deg. 32' 11" West, 320.00 ft. to a point;

Thence South 00 deg. 41' 21" East, 430.00 ft. to a point on the centerline of Cook Road, 60 ft. wide;

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Thence South 89 deg. 32' 11" West, 40.00 ft. along said centerline of Cook Road to a point;

Thence North 00 deg. 41' 21" West, 361.96 ft. to a point;

Thence North 87 deg. 30' 25" West, 859.07 ft. to a point on the westerly line of said O.L. 7;

Thence North 00 deg. 38' 50" West, 1,058.60 ft. along the said westerly line of O.L. 7 to the northwesterly corner thereof;

Thence North 89 deg. 03' 10" East, 653.06 ft. along the said northerly line of O.L. 7 to a point;

Thence North 01 deg. 28' 49" West, 854.37 ft. to a point;

Thence South 89 deg. 18' 35" West, 422.97 ft. to a point;

Thence North 00 deg. 12' 42" West, 318.71 ft. to a point;

Thence South 89 deg. 32' 15" West, 680.00 ft. to a point on the centerline of Fitch Road, 60 ft. wide;

Thence North 00 deg. 10' 10" East, 75.00 ft. along said centerline of Fitch Road to a point;

Thence North 89 deg. 32' 15" East, 422.91 ft. to a point;

Thence North 00 deg. 10' 10" East, 103.00 ft. to a point;

Thence South 89 deg. 32' 15" West, 422.91 ft. to a point on the said centerline of Fitch Road;

Thence North 00 deg. 10' 10" East, 737.70 ft. along said centerline of Fitch Road to its point of intersection with the northerly line of said Tract 7;

Thence North 89 deg. 02' 55" East, 1,682.02 ft. along the said northerly line of Tract 7 to a point;

Thence South 01 deg. 20' 20" East, 545.77 ft. to a point;

Thence North 89 deg. 56' 15" East, 382.43 ft. to a point;

Thence South 01 deg. 21' 10" East, 666.99 ft. to a point;

Thence North 89 deg. 32' 00" East, 2,601.90 ft. to a point;

Thence South 01 deg. 28' 00" East, 92.46 ft. to the principal point of beginning of the premises herein described;

Thence South 55 deg. 52' 41" East, 90.75 ft. to a point;

Thence South 89 deg. 27' 10" West, 74.71 ft. to a point;

Thence North 00 deg. 28' 00" West, 51.62 ft. to the principal place of beginning and containing 0.0443 acres of land (1,930 sq. ft.) as calculated and described by The North Coast Engineering and Surveying Co., Inc., in June, 2001, be the same more or less, but subject to all legal highways.

Parcel No. 8 (Cleveland trailor park)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original

Order No. : 1100718371
Loan No.:

Rockport Township Section No. 1 and bounded and described as follows:.
Beginning on the centerline of Brookpark Road, S.W., (100 ft. wide), at the Southeasterly corner of said Original Rockport Township Section No. 1;

Thence South 89 deg. 03' 00" West, along the centerline of Brookpark Road, S.W., 429.11 ft. to the Southeasterly corner of land conveyed to The S.C.K. Corporation, by deed dated May 12, 1954 and recorded in Volume 8043, Page 722 of Cuyahoga County Records;

Thence North 00 deg. 32' 30" West, along the Easterly line of land so conveyed to The S.C.K. Corporation, 1120.97 ft. to the southerly line of Parcel No. 1 of land conveyed to The New York Central Railroad Co. by deed dated October 17, 1946 and recorded in Volume 6235, Page 526 of Cuyahoga County Records;

Thence South 89 deg. 46' 10" East, along the Southerly line of the first parcel of land so conveyed, 429.13 ft. to the easterly line of said Original Rockport Township Section No. 1;

Thence South 00 deg. 32' 30" East, along the easterly line of said Section No. 1, 1112.38 ft. to the place of beginning, be the same more or less, but subject to all legal highways.

ROBERT KLAIBER P.E., P.S.
Legal Description complies with Cuyahoga County Conveyance Standards and is approved for transfer.

MAY 03 2007

Agent

Permanent Parcel #.	020-23-003 262-11-001 262-14-050	262-18-700A 262-18-701A 262-18-702A	Add.PPN: 262-18-703A 262-18-704A 262-18-705A
Type Instrument: Warranty Deed		Date: 5/3/2007 10:39:00 AM	
Tax District #: 3100		Tax List Year: 2007	
Grantor: Columbia West Invest Llc &		Land Use Code: 4150	
Grantee: Columbia West Invest Llc &		Land Value: 594,900	
Balance Assumed: $ 0.00		Building Value: 467,600	
Total Consideration: $ 0.00		Total Value 1,062,500	
Conv. Fee Paid: $ 0.00		Arms Length Sale: NO	
Transfer Fee Paid $ 4.50		Rcpt	
Fee Paid by: Barristers Title Agency		Inst # 284683	
Exempt Code:		Check #	

Frank Russo
CUYAHOGA COUNTY AUDITOR

Frank Russo
CUYAHOGA COUNTY AUDITOR

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OhioEPA
State of Ohio Environmental Protection Agency

STREET ADDRESS:
Lazarus Government Center
122 S. Front Street
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

July 5, 2001

Re: NPDES Permit Transfer
Ohio EPA Permit No. 3PV00013*CD
Application No. OH0044741

Columbia MHC East, LLC
Columbia Mobile Home Park
642 Kreag Road
Pittsford, NY 14535

Ladies and Gentlemen:

Ohio EPA has received a notice of intent to transfer the above permit. Pursuant to Ohio Revised Code 6111.03(J) and Ohio Administrative Code 3745-33-08, the proposed transfer of the Ohio National Pollutant Discharge Elimination System permit is hereby approved. In accordance with the terms and conditions conveyed in the agreement to transfer the permit, the effective date of the transfer shall be June 26, 2001

Columbia Mobile MHC East, LLC, the permittee, shall assume all responsibility, coverage, and liability specified in the permit.

Sincerely,

Christopher Jones
Director

CJ/dks

CERTIFIED MAIL

cc: Northeast District Office
S. Kemper, Enforcement
R. Bell, NEDO-DSW
Trailer Mart Inc.
Columbia West Investors, LC
Ed Meyers, Arter & Hadden LLP
Philip M. Silver, Silver & Feldman
Journal Room
File

EXHIBIT
tabbies
C

Bob Taft, Governor
Maureen O'Connor, Lieutenant Governor
Christopher Jones, Director

Printed on Recycled Paper

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Application No. OH0044741

Issue Date: May 22, 2013

Effective Date: July 1, 2013

Expiration Date: June 30, 2018

Ohio Environmental Protection Agency
Authorization to Discharge Under the
National Pollutant Discharge Elimination System

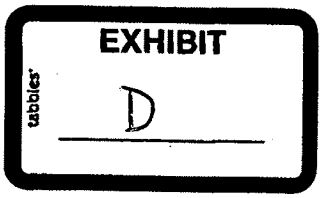
In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq., hereinafter referred to as the "Act"), and the Ohio Water Pollution Control Act (Ohio Revised Code Section 6111),

Columbia MHC East, LLC

is authorized by the Ohio Environmental Protection Agency, hereinafter referred to as "Ohio EPA," to discharge from the Columbia Park wastewater treatment works located at 7100 Columbia Rd., Olmsted Township, Ohio, Cuyahoga County and discharging to the West Branch of the Rocky River via an unnamed tributary in accordance with the conditions specified in Parts I, II, and III of this permit.

This permit is conditioned upon payment of applicable fees as required by Section 3745.11 of the Ohio Revised Code.

This permit and the authorization to discharge shall expire at midnight on the expiration date shown above. In order to receive authorization to discharge beyond the above date of expiration, the permittee shall submit such information and forms as are required by the Ohio EPA no later than 180 days prior to the above date of expiration.



Scott J. Nally
Director

Total Pages: 29

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Part I. A. - INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this permit and lasting until April 30, 2014, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 3PV00013001. See Part II, OTHER REQUIREMENTS. for locations of effluent sampling.

Table - Final Outfall - 001 - Interim

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Day	Maximum Indicating Thermometer	All
00300 - Dissolved Oxygen - mg/l	-	5.0	-	-	-	-	-	1/Day	Grab	All
00400 - pH - S.U.	9.0	6.5	-	-	-	-	-	1/Day	Grab	All
00530 - Total Suspended Solids - mg/l	-	-	18	12	-	17.0	11.4	2/Week	24hr Composite	All
00552 - Oil and Grease, Hexane Extr Method - mg/l	10	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	6.0	4.0	-	5.7	3.8	2/Week	24hr Composite	Winter
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	2.3	1.5	-	2.2	1.4	2/Week	24hr Composite	Summer
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1 / 2 Weeks	24hr Composite	All
00719 - Cyanide, Free - mg/l	-	-	-	-	-	-	-	1/Year	Grab	September
01074 - Nickel, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01094 - Zinc, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01113 - Cadmium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01114 - Lead, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01118 - Chromium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01119 - Copper, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01220 - Chromium, Dissolved Hexavalent - ug/l	-	-	-	-	-	-	-	1/Year	Grab	September

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Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
31616 - Fecal Coliform - #/100 ml	-	-	2000	1000	-	-	-	2/Week	Grab	Summer
31648 - E. coli - #/100 ml	-	-	-	-	-	-	-	2/Week	Grab	Summer
50050 - Flow Rate - MGD	-	-	-	-	-	-	-	1/Day	Continuous	All
50060 - Chlorine, Total Residual - mg/l	0.019	-	-	-	-	-	-	1/Day	Grab	Summer
50092 - Mercury, Total (Low Level) - ng/l	-	-	-	-	-	-	-	1/Year	Grab	September
70300 - Residue, Total Filterable - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
80082 - CBOD 5 day - mg/l	-	-	15	10	-	14.2	9.5	2/Week	24hr Composite	All

Notes for Station Number 3PV00013001:

* Effluent loadings based on average design flow of 0.250 MGD.
- Total residual chlorine - See Part II, Item G.
- E.Coli - See Schedule of Compliance.

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Part I. A. - FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on May 1, 2014 and lasting until the expiration date, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 3PV00013001. See Part II, OTHER REQUIREMENTS, for locations of effluent sampling.

Table - Final Outfall - 001 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Day	Maximum Indicating Thermometer	All
00300 - Dissolved Oxygen - mg/l	-	5.0	-	-	-	-	-	1/Day	Grab	All
00400 - pH - S.U.	9.0	6.5	-	-	-	-	-	1/Day	Grab	All
00530 - Total Suspended Solids - mg/l	-	-	18	12	-	17.0	11.4	2/Week	24hr Composite	All
00552 - Oil and Grease, Hexane Extr Method - mg/l	10	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	6.0	4.0	-	5.7	3.8	2/Week	24hr Composite	Winter
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	2.3	1.5	-	2.2	1.4	2/Week	24hr Composite	Summer
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1 / 2 Weeks	24hr Composite	All
00719 - Cyanide, Free - mg/l	-	-	-	-	-	-	-	1/Year	Grab	September
01074 - Nickel, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01094 - Zinc, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01113 - Cadmium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01114 - Lead, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01118 - Chromium, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01119 - Copper, Total Recoverable - ug/l	-	-	-	-	-	-	-	1/Year	24hr Composite	September
01220 - Chromium, Dissolved Hexavalent - ug/l	-	-	-	-	-	-	-	1/Year	Grab	September

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Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
31648 - E. coli - #/100 ml	-	-	284	126	-	-	-	2/Week	Grab	Summer
50050 - Flow Rate - MGD	-	-	-	-	-	-	-	1/Day	Continuous	All
50060 - Chlorine, Total Residual - mg/l	0.019	-	-	-	-	-	-	1/Day	Grab	Summer
50092 - Mercury, Total (Low Level) - ng/l	-	-	-	-	-	-	-	1/Year	Grab	September
70300 - Residue, Total Filterable - mg/l	-	-	-	-	-	-	-	1/Month	24hr Composite	All
80082 - CBOD 5 day - mg/l	-	-	15	10	-	14.2	9.5	2/Week	24hr Composite	All

Notes for Station Number 3PV00013001:

* Effluent loadings based on average design flow of 0.250 MGD.
- Total residual chlorine - See Part II. Item G.
- E.Coli - See Schedule of Compliance.

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Part I. B. - SLUDGE MONITORING REQUIREMENTS

1. Sludge Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the treatment works' final sludge at Station Number 3PV00013586, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sludge sampling.

Table - Sludge Monitoring - 586 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
51129 - Sludge Fee Weight - dry tons	-	-	-	-	-	-	-	1/Year	Total	December

Notes for Station Number 3PV00013586:

- Monitoring is required when sewage sludge is removed from the permittee's facility for disposal in a mixed solid waste landfill. The total Sludge Fee Weight of sewage sludge disposed of in a mixed solid waste landfill for the entire year shall be reported on the December Discharge Monitoring Report (DMR).

- If no sewage sludge is removed from the Permittee's facility for disposal in a mixed solid waste landfill during the year:
1) eDMR users should select the "No Discharge" check box on the data entry form. PIN the eDMR.
2) Permittees reporting on paper should report "AL" in the first column of the first day of December on the 4500 Form. Sign the form.

- Sludge fee weight means sludge weight, in dry U.S. tons, excluding any admixtures such as liming material or bulking agents.

- See Part II, H and I.

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Part I. B. - SLUDGE MONITORING REQUIREMENTS

1. Sludge Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the treatment works' final sludge at Station Number 3PV00013588, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sludge sampling.

Table - Sludge Monitoring - 588 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
70316 - Sludge Weight - Dry Tons	-	-	-	-	-	-	-	1/Year	Total	December

Notes for Station Number 3PV00013588:

- Monitoring is required when sludge is removed from the Permittee's facility for transfer to another NPDES permit holder. The total sludge weight transferred to another NPDES permit holder for the entire year shall be reported on the December Discharge Monitoring Report (DMR).

- If no sewage sludge is removed from the Permittee's facility for transfer to another NPDES permit holder during the year:
1) eDMR users should select the "No Discharge" check box on the data entry form. PIN the eDMR.
2) Permittees reporting on paper should report "AL" in the first column of the first day of December on the 4500 Form. Sign the form.

- Sludge weight is a calculated total for the year. To convert from gallons of liquid sewage sludge to dry tons of sewage sludge: dry tons= gallons x 8.34 (lbs/gallon) x 0.0005 (tons/lb) x decimal fraction total solids.

- See Part II, H and I.

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Part I, B. - INFLUENT MONITORING REQUIREMENTS

1. Influent Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date, the permittee shall monitor the treatment works' influent wastewater at Station Number 3PV00013601, and report to the Ohio EPA in accordance with the following table. Samples of influent used for determination of net values or percent removal must be taken the same day as those samples of effluent used for that determination. See Part II, OTHER REQUIREMENTS, for location of influent sampling.

Table - Influent Monitoring - 601 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00400 - pH - S.U.	-	-	-	-	-	-	-	1/Day	Grab	All
00530 - Total Suspended Solids - mg/l	-	-	-	-	-	-	-	2/Week	24hr Composite	All
80082 - CBOD 5 day - mg/l	-	-	-	-	-	-	-	2/Week	24hr Composite	All

Notes for Station Number 3PV00013601:

- Sampling for the respective parameters shall be performed on the same day as for Station 3PV00013001.

- If there is no automatic sampler, composite samples shall be comprised of a minimum of three grab samples proportionate in volume to the sewage flow rate at the time of sampling and collected at intervals of at least 30 minutes but not more than 2 hours during the period that the plant is staffed on each day for sampling.

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Part I. B. - UPSTREAM MONITORING REQUIREMENTS

1. Upstream Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the receiving stream, upstream of the point of discharge at Station Number 3PV00013801, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sampling.

Table - Upstream Monitoring - 801 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Month	Grab	All
00300 - Dissolved Oxygen - mg/l	-	-	-	-	-	-	-	1/Month	Grab	All
00400 - pH - S.U.	-	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
31648 - E. coli - #/100 ml	-	-	-	-	-	-	-	1/Quarter	Grab	Summer-Qtrly

Notes for Station Number 3PV00013801:
- Sampling for the respective parameters shall be performed on the same day as for Station 3PV00013001.

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Part I, B. - DOWNSTREAM-NEARFIELD MONITORING REQUIREMENTS

1. Downstream-Nearfield Monitoring. During the period beginning on the effective date of this permit and lasting until the expiration date , the permittee shall monitor the receiving stream, downstream of the point of discharge, at Station Number 3PV00013901, and report to the Ohio EPA in accordance with the following table. See Part II, OTHER REQUIREMENTS, for location of sampling.

Table - Downstream-Nearfield Monitoring - 901 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading* kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Month	Grab	All
00300 - Dissolved Oxygen - mg/l	-	-	-	-	-	-	-	1/Month	Grab	All
00400 - pH - S.U.	-	-	-	-	-	-	-	1/Month	Grab	All
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00625 - Nitrogen Kjeldahl, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00630 - Nitrite Plus Nitrate, Total - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00665 - Phosphorus, Total (P) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
00900 - Hardness, Total (CaCO3) - mg/l	-	-	-	-	-	-	-	1/Quarter	Grab	Quarterly
31648 - E. coli - #/100 ml	-	-	-	-	-	-	-	1/Quarter	Grab	Summer-Qtrly

Notes for Station Number 3PV00013901:
- Sampling for the respective parameters shall be performed on the same day as for Station 3PV00013001.

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Part I, C - Schedule of Compliance

1. Sanitary Sewer System Infiltration and Inflow (I/I)/Bypasses

The collection system receives excessive infiltration and inflow (I/I) which results in one or more of the following: collection system overflows; surcharging of sewers; hydraulic overloading of lift stations; sewage flows at the treatment plant that that cause poor treatment plant performance or result in plant bypasses. All sewage flow must be collected, transported to the treatment plant, and properly treated prior to discharge.

The permittee shall undertake the following actions:

a. The permittee shall conduct a comprehensive analysis of all feasible alternatives necessary to eliminate the tertiary sand filter bypass at the treatment plant and any overflows in the collection system. This analysis shall address and evaluate the following:

i. Inflow/infiltration reduction within the collection system;

ii. Additional wastewater storage and flow equalization;

iii. Providing additional secondary treatment capacity which includes an analysis of constructing additional secondary capacity as well as an analysis of process changes to enhance secondary treatment capacity;

iv. The analysis shall also evaluate methods that will enhance the treatment of any bypassed flow;

v. Costs associated with the respective alternatives;

vi. A fixed-date schedule for implementation of necessary improvements (if required) in the collection system and/or the treatment plant;

b. The permittee shall submit the comprehensive analysis evaluation listed in Item a. above as soon as possible, but no later that 6 months from the effective date of this NPDES permit.

c. Within 30 days of notification of review and acceptance by Ohio EPA, the permittee shall implement the recommendations of the evaluation. The permittee shall respond to any deficiencies in the evaluation noted by Ohio EPA within 30 days.

d. The permittee shall submit annual status reports towards implementation of the evaluation approved under Item c.

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2. Escherichia (E.) coli Monitoring and Limits:

1. The permittee shall evaluate the ability of its existing treatment facilities to meet the final effluent limits for E. coli at Outfall 3PV00013001.

2. Within 6 months from the effective date of this permit, the permittee shall submit to the Ohio EPA District Office a brief status report on the ability of its existing treatment facilities to meet the final effluent limits for E. coli. If the permittee determines that its existing treatment facilities are not capable of meeting the final effluent limits for E. coli, the permittee shall submit an approvable Permit To Install (PTI) application for plant improvements necessary to meet the final effluent limits for E. coli.

3. Not later than 12 Months from the effective date of this permit, the permittee shall achieve the final effluent limits for E. coli at outfall 3PV00013001.

4. The permittee shall notify the Ohio EPA Northeast District Office in writing within 7 days of achieving compliance with the final effluent limit for E. coli.

See Part III, Item 12. - Noncompliance Notification

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Part II, Other Requirements

A. Operator Certification Requirements

1. Classification

a. In accordance with Ohio Administrative Code 3745-7-04, the sewage treatment facility at this facility shall be classified as a Class II facility.

b. All sewerage (collection) systems that are tributary to this treatment works are Class II sewerage systems in accordance with paragraph (B)(1)(a) of rule 3745-7-04 of the Ohio Administrative Code.

B. Operator of Record

1. The permittee shall designate one or more operator of record to oversee the technical operation of the treatment works and sewerage (collection) system in accordance with paragraph (A)(2) of rule 3745-7-02 of the Ohio Administrative Code.

2. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the treatment works as defined in Part II, Item A.1 of this NPDES permit.

3. Within three days of a change in an operator of record, the permittee shall notify the Director of the Ohio EPA of any such change on a form acceptable to Ohio EPA. The appropriate form can be found at the following website:

http://www.epa.ohio.gov/portals/28/Documents/opcert/Operator_of_Record_Notification_

4. Within 60 days of the effective date of this permit, the permittee shall notify the Director of Ohio EPA of the operators of record on a form acceptable to Ohio EPA.

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5. Minimum Staffing Requirements

a. The permittee shall ensure that the treatment works operator of record is physically present at the facility in accordance with the minimum staffing requirements per paragraph (C)(1) of rule 3745-7-04 of the Ohio Administrative Code or the requirements from an approved 3745-7-04(C) minimum staffing hour reduction plan.

b. Sewerage (collection) system Operators of Record are not required to meet minimum staffing requirements in paragraph (C)(1) of rule 3745-7-04 of the Ohio Administrative Code.

c. If Ohio EPA approves a reduction in minimum staffing requirements based upon a facility operating plan, any change in the criteria under which the operating plan was approved (such as enforcement status, history of noncompliance, or provisions included in the plan) will require that the treatment works immediately return to the minimum staffing requirements included in paragraph (C)(1) of rule 3745-7-04 of the Ohio Administrative Code.

C. Description of the location of the required sampling stations are as follows:

Sampling Station	Description of Location
3PV00013001	Final effluent (Lat: 41N 23' 16"; Long: 81W 54' 27")
3PV00013586	Sludge hauled to a solid waste landfill
3PV00013588	Sludge hauled to another NPDES permit holder
3PV00013601	Plant influent
3PV00013801	Upstream of plant discharge
3PV00013901	Downstream of plant discharge

D. All parameters, except flow, need not be monitored on days when the plant is not normally staffed (Saturdays, Sundays, and Holidays). On those days, report "AN" on the monthly report form.

E. Composite samples shall be comprised of a series of grab samples collected over a 24-hour period and proportionate in volume to the sewage flow rate at the time of sampling. Such samples shall be collected at such times and locations, and in such a fashion, as to be representative of the facility's overall performance.

F. Grab samples shall be collected at such times and locations, and in such fashion, as to be representative of the facility's performance.

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G. The parameters below have had effluent limitations established that are below the Ohio EPA Quantification Level (OEPA QL) for the approved analytical procedure promulgated at 40 CFR 136. OEPA QLs may be expressed as Practical Quantification Levels (PQL) or Minimum Levels (ML).

Compliance with an effluent limit that is below the OEPA QL is determined in accordance with ORC Section 6111.13 and OAC Rule 3745-33-07(C). For maximum effluent limits, any value reported below the OEPA QL shall be considered in compliance with the effluent limit. For average effluent limits, compliance shall be determined by taking the arithmetic mean of values reported for a specified averaging period, using zero (0) for any value reported at a concentration less than the OEPA QL, and comparing that mean to the appropriate average effluent limit. An arithmetic mean that is less than or equal to the average effluent limit shall be considered in compliance with that limit.

The permittee must utilize the lowest available detection method currently approved under 40 CFR Part 136 for monitoring these parameters.

REPORTING:

All analytical results, even those below the OEPA QL (listed below), shall be reported. Analytical results are to be reported as follows:

1. Results above the QL: Report the analytical result for the parameter of concern.

2. Results above the MDL, but below the QL: Report the analytical result, even though it is below the QL.

3. Results below the MDL: Analytical results below the method detection limit shall be reported as "below detection" using the reporting code "AA".

The following table of quantification levels will be used to determine compliance with NPDES permit limits:

Parameter	PQL	ML
Chlorine, tot. res.	0.050 mg/l	--

This permit may be modified, or, alternatively, revoked and reissued, to include more stringent effluent limits or conditions if information generated as a result of the conditions of this permit indicate the presence of these pollutants in the discharge at levels above the water quality based effluent limit (WQBEL).

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H. All disposal, use, storage, or treatment of sewage sludge by the Permittee shall comply with Chapter 6111. of the Ohio Revised Code, Chapter 3745-40 of the Ohio Administrative Code, any further requirements specified in this NPDES permit, and any other actions of the Director that pertain to the disposal, use, storage, or treatment of sewage sludge by the Permittee.

I. No later than January 31 of each calendar year the Permittee shall submit two (2) copies of a report summarizing the sewage sludge disposal, use, storage, or treatment activities of the Permittee during the previous calendar year. One copy of the report shall be sent to the Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, Ohio 43216-1049, and one copy of the report shall be sent to the appropriate Ohio EPA District Office. The report shall be submitted on Ohio EPA Form 4229.

J. It is understood by Ohio EPA that at the time this permit becomes effective, an analytical method is not approved under 40 CFR 136 to comply with the free cyanide monitoring requirements included in the permit. The permittee shall utilize method 4500-CN I in the 18th, 19th, or 20th edition of Standard Methods.

K. The permittee shall use EPA Method 1631 promulgated under 40 CFR 136 to comply with the influent and effluent mercury monitoring requirements of this permit.

L. Not later than 4 months from the effective date of this permit, the permittee shall post a permanent marker on the stream bank at each outfall that is regulated under this NPDES permit. This includes final outfalls, bypasses, and combined sewer overflows. The marker shall consist at a minimum of the name of the establishment to which the permit was issued, the Ohio EPA permit number, and the outfall number and a contact telephone number. The information shall be printed in letters not less than two inches in height. The marker shall be a minimum of 2 feet by 2 feet and shall be a minimum of 3 feet above ground level. The sign shall be not be obstructed such that persons in boats or persons swimming on the river or someone fishing or walking along the shore cannot read the sign. Vegetation shall be periodically removed to keep the sign visible. If the outfall is normally submerged the sign shall indicate that. If the outfall is a combined sewer outfall, the sign shall indicate that untreated human sewage may be discharged from the outfall during wet weather and that harmful bacteria may be present in the water.

M. Final permit limitations based on preliminary or approved waste load allocations are subject to change based on modifications to or finalization of the allocation or report or changes to Water Quality Standards. Monitoring requirements and/or special conditions of this permit are subject to change based on regulatory or policy changes.

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PART III - GENERAL CONDITIONS

1. DEFINITIONS

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

"Average weekly" discharge limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week. Each of the following 7-day periods is defined as a calendar week: Week 1 is Days 1 - 7 of the month; Week 2 is Days 8 - 14; Week 3 is Days 15 - 21; and Week 4 is Days 22 - 28. If the "daily discharge" on days 29, 30 or 31 exceeds the "average weekly" discharge limitation, Ohio EPA may elect to evaluate the last 7 days of the month as Week 4 instead of Days 22 - 28. Compliance with fecal coliform bacteria or E coli bacteria limitations shall be determined using the geometric mean.

"Average monthly" discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. Compliance with fecal coliform bacteria or E coli bacteria limitations shall be determined using the geometric mean.

"85 percent removal" means the arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period.

"Absolute Limitations" Compliance with limitations having descriptions of "shall not be less than," "nor greater than," "shall not exceed," "minimum," or "maximum" shall be determined from any single value for effluent samples and/or measurements collected.

"Net concentration" shall mean the difference between the concentration of a given substance in a sample taken of the discharge and the concentration of the same substances in a sample taken at the intake which supplies water to the given process. For the purpose of this definition, samples that are taken to determine the net concentration shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.

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"Net Load" shall mean the difference between the load of a given substance as calculated from a sample taken of the discharge and the load of the same substance in a sample taken at the intake which supplies water to given process. For purposes of this definition, samples that are taken to determine the net loading shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.

"MGD" means million gallons per day.

"mg/l" means milligrams per liter.

"ug/l" means micrograms per liter.

"ng/l" means nanograms per liter.

"S.U." means standard pH unit.

"kg/day" means kilograms per day.

"Reporting Code" is a five digit number used by the Ohio EPA in processing reported data. The reporting code does not imply the type of analysis used nor the sampling techniques employed.

"Quarterly (1/Quarter) sampling frequency" means the sampling shall be done in the months of March, June, August, and December, unless specifically identified otherwise in the Effluent Limitations and Monitoring Requirements table.

"Yearly (1/Year) sampling frequency" means the sampling shall be done in the month of September, unless specifically identified otherwise in the effluent limitations and monitoring requirements table.

"Semi-annual (2/Year) sampling frequency" means the sampling shall be done during the months of June and December, unless specifically identified otherwise.

"Winter" shall be considered to be the period from November 1 through April 30.

"Bypass" means the intentional diversion of waste streams from any portion of the treatment facility.

"Summer" shall be considered to be the period from May 1 through October 31.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

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"Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

"Sewage sludge weight" means the weight of sewage sludge, in dry U.S. tons, including admixtures such as liming materials or bulking agents. Monitoring frequencies for sewage sludge parameters are based on the reported sludge weight generated in a calendar year (use the most recent calendar year data when the NPDES permit is up for renewal).

"Sewage sludge fee weight" means the weight of sewage sludge, in dry U.S. tons, excluding admixtures such as liming materials or bulking agents. Annual sewage sludge fees, as per section 3745.11(Y) of the Ohio Revised Code, are based on the reported sludge fee weight for the most recent calendar year.

2. GENERAL EFFLUENT LIMITATIONS

The effluent shall, at all times, be free of substances:

A. In amounts that will settle to form putrescent, or otherwise objectionable, sludge deposits; or that will adversely affect aquatic life or water fowl;

B. Of an oily, greasy, or surface-active nature, and of other floating debris, in amounts that will form noticeable accumulations of scum, foam or sheen;

C. In amounts that will alter the natural color or odor of the receiving water to such degree as to create a nuisance;

D. In amounts that either singly or in combination with other substances are toxic to human, animal, or aquatic life;

E. In amounts that are conducive to the growth of aquatic weeds or algae to the extent that such growths become inimical to more desirable forms of aquatic life, or create conditions that are unsightly, or constitute a nuisance in any other fashion;

F. In amounts that will impair designated instream or downstream water uses.

3. FACILITY OPERATION AND QUALITY CONTROL

All wastewater treatment works shall be operated in a manner consistent with the following:

A. At all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with conditions of the permit.

B. The permittee shall effectively monitor the operation and efficiency of treatment and control facilities and the quantity and quality of the treated discharge.

C. Maintenance of wastewater treatment works that results in degradation of effluent quality shall be scheduled during non-critical water quality periods and shall be carried out in a manner approved by Ohio EPA as specified in the Paragraph in the PART III entitled, "UNAUTHORIZED DISCHARGES".

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4. REPORTING

A. Monitoring data required by this permit shall be submitted monthly on Ohio EPA 4500 Discharge Monitoring Report (DMR) forms using the electronic DMR (e-DMR) internet application. e-DMR allows permitted facilities to enter, sign, and submit DMRs on the internet. e-DMR information is found on the following web page:

http://www.epa.ohio.gov/dsw/edmr/eDMR.aspx

Alternatively, if you are unable to use e-DMR due to a demonstrated hardship, monitoring data may be submitted on paper DMR forms provided by Ohio EPA. Monitoring data shall be typed on the forms. Please contact Ohio EPA, Division of Surface Water at (614) 644-2050 if you wish to receive paper DMR forms.

B. DMRs shall be signed by a facility's Responsible Official or a Delegated Responsible Official (i.e. a person delegated by the Responsible Official). The Responsible Official of a facility is defined as:

1. For corporations - a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. For partnerships - a general partner;

3. For a sole proprietorship - the proprietor; or,

4. For a municipality, state or other public facility - a principal executive officer, a ranking elected official or other duly authorized employee.

For e-DMR, the person signing and submitting the DMR will need to obtain an eBusiness Center account and Personal Identification Number (PIN). Additionally, Delegated Responsible Officials must be delegated by the Responsible Official, either on-line using the eBusiness Center's delegation function, or on a paper delegation form provided by Ohio EPA. For more information on the PIN and delegation processes, please view the following web page:

http://www.epa.ohio.gov/dsw/edmr/eDMRpin.aspx

C. DMRs submitted using e-DMR shall be submitted to Ohio EPA by the 20th day of the month following the month-of-interest. DMRs submitted on paper must include the original signed DMR form and shall be mailed to Ohio EPA at the following address so that they are received no later than the 15th day of the month following the month-of-interest:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water - PCU
P.O. Box 1049
Columbus, Ohio 43216-1049

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D. Regardless of the submission method, a paper copy of the submitted Ohio EPA 4500 DMR shall be maintained onsite for records retention purposes (see Section 7. RECORDS RETENTION). For e-DMR users, view and print the DMR from the Submission Report Information page after each original or revised DMR is submitted. For submittals on paper, make a copy of the completed paper form after it is signed by a Responsible Official or a Delegated Responsible Official.

E. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified in Section 5. SAMPLING AND ANALYTICAL METHODS, the results of such monitoring shall be included in the calculation and reporting of the values required in the reports specified above.

F. Analyses of pollutants not required by this permit, except as noted in the preceding paragraph, shall not be reported to the Ohio EPA, but records shall be retained as specified in Section 7. RECORDS RETENTION.

5. SAMPLING AND ANALYTICAL METHOD

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored flow. Test procedures for the analysis of pollutants shall conform to regulation 40 CFR 136, "Test Procedures For The Analysis of Pollutants" unless other test procedures have been specified in this permit. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to insure accuracy of measurements.

6. RECORDING OF RESULTS

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

A. The exact place and date of sampling; (time of sampling not required on EPA 4500)

B. The person(s) who performed the sampling or measurements;

C. The date the analyses were performed on those samples;

D. The person(s) who performed the analyses;

E. The analytical techniques or methods used; and

F. The results of all analyses and measurements.

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7. RECORDS RETENTION

The permittee shall retain all of the following records for the wastewater treatment works for a minimum of three years except those records that pertain to sewage sludge disposal, use, storage, or treatment, which shall be kept for a minimum of five years, including:

A. All sampling and analytical records (including internal sampling data not reported);

B. All original recordings for any continuous monitoring instrumentation;

C. All instrumentation, calibration and maintenance records;

D. All plant operation and maintenance records;

E. All reports required by this permit; and

F. Records of all data used to complete the application for this permit for a period of at least three years, or five years for sewage sludge, from the date of the sample, measurement, report, or application.

These periods will be extended during the course of any unresolved litigation, or when requested by the Regional Administrator or the Ohio EPA. The three year period, or five year period for sewage sludge, for retention of records shall start from the date of sample, measurement, report, or application.

8. AVAILABILITY OF REPORTS

Except for data determined by the Ohio EPA to be entitled to confidential status, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate district offices of the Ohio EPA. Both the Clean Water Act and Section 6111.05 Ohio Revised Code state that effluent data and receiving water quality data shall not be considered confidential.

9. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

10. RIGHT OF ENTRY

The permittee shall allow the Director or an authorized representative upon presentation of credentials and other documents as may be required by law to:

A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.

B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.

D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

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11. UNAUTHORIZED DISCHARGES

A. Bypass Not Exceeding Limitations - The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 11.B and 11.C.

B. Notice

1. Anticipated Bypass - If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

2. Unanticipated Bypass - The permittee shall submit notice of an unanticipated bypass as required in paragraph 12.B (24 hour notice).

C. Prohibition of Bypass

1. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The permittee submitted notices as required under paragraph 11.B.

2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 11.C.1.

12. NONCOMPLIANCE NOTIFICATION

A. Exceedance of a Daily Maximum Discharge Limit

1. The permittee shall report noncompliance that is the result of any violation of a daily maximum discharge limit for any of the pollutants listed by the Director in the permit by e-mail or telephone within twenty-four (24) hours of discovery.

The permittee may report to the appropriate Ohio EPA district office e-mail account as follows (this method is preferred):

Southeast District Office: sedo24hournpdes@epa.state.oh.us
Southwest District Office: swdo24hournpdes@epa.state.oh.us
Northwest District Office: nwdo24hournpdes@epa.state.oh.us
Northeast District Office: nedo24hournpdes@epa.state.oh.us
Central District Office: cdo24hournpdes@epa.state.oh.us
Central Office: co24hournpdes@epa.state.oh.us

The permittee shall attach a noncompliance report to the e-mail. A noncompliance report form is available on the following web site:

http://www.epa.ohio.gov/dsw/permits/permits.aspx

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Or, the permittee may report to the appropriate Ohio EPA district office by telephone toll-free between 8:00 AM and 5:00 PM as follows:

Southeast District Office: (800) 686-7330
Southwest District Office: (800) 686-8930
Northwest District Office: (800) 686-6930
Northeast District Office: (800) 686-6330
Central District Office: (800) 686-2330
Central Office: (614) 644-2001

The permittee shall include the following information in the telephone noncompliance report:

a. The name of the permittee, and a contact name and telephone number;

b. The limit(s) that has been exceeded;

c. The extent of the exceedance(s);

d. The cause of the exceedance(s);

e. The period of the exceedance(s) including exact dates and times;

f. If uncorrected, the anticipated time the exceedance(s) is expected to continue; and,

g. Steps taken to reduce, eliminate or prevent occurrence of the exceedance(s).

B. Other Permit Violations

1. The permittee shall report noncompliance that is the result of any unanticipated bypass resulting in an exceedance of any effluent limit in the permit or any upset resulting in an exceedance of any effluent limit in the permit by e-mail or telephone within twenty-four (24) hours of discovery.

The permittee may report to the appropriate Ohio EPA district office e-mail account as follows (this method is preferred):

Southeast District Office: sedo24hournpdes@epa.state.oh.us
Southwest District Office: swdo24hournpdes@epa.state.oh.us
Northwest District Office: nwdo24hournpdes@epa.state.oh.us
Northeast District Office: nedo24hournpdes@epa.state.oh.us
Central District Office: cdo24hournpdes@epa.state.oh.us
Central Office: co24hournpdes@epa.state.oh.us

The permittee shall attach a noncompliance report to the e-mail. A noncompliance report form is available on the following web site:

http://www.epa.ohio.gov/dsw/permits/permits.aspx

Or, the permittee may report to the appropriate Ohio EPA district office by telephone toll-free between 8:00 AM and 5:00 PM as follows:

Southeast District Office: (800) 686-7330
Southwest District Office: (800) 686-8930
Northwest District Office: (800) 686-6930
Northeast District Office: (800) 686-6330
Central District Office: (800) 686-2330
Central Office: (614) 644-2001

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The permittee shall include the following information in the telephone noncompliance report:

a. The name of the permittee, and a contact name and telephone number;

b. The time(s) at which the discharge occurred, and was discovered;

c. The approximate amount and the characteristics of the discharge;

d. The stream(s) affected by the discharge;

e. The circumstances which created the discharge;

f. The name and telephone number of the person(s) who have knowledge of these circumstances;

g. What remedial steps are being taken; and,

h. The name and telephone number of the person(s) responsible for such remedial steps.

2. The permittee shall report noncompliance that is the result of any spill or discharge which may endanger human health or the environment within thirty (30) minutes of discovery by calling the 24-Hour Emergency Hotline toll-free at (800) 282-9378. The permittee shall also report the spill or discharge by e-mail or telephone within twenty-four (24) hours of discovery in accordance with B.1 above.

C. When the telephone option is used for the noncompliance reports required by A and B, the permittee shall submit to the appropriate Ohio EPA district office a confirmation letter and a completed noncompliance report within five (5) days of the discovery of the noncompliance. This follow up report is not necessary for the e-mail option which already includes a completed noncompliance report.

D. If the permittee is unable to meet any date for achieving an event, as specified in a schedule of compliance in their permit, the permittee shall submit a written report to the appropriate Ohio EPA district office within fourteen (14) days of becoming aware of such a situation. The report shall include the following:

1. The compliance event which has been or will be violated;

2. The cause of the violation;

3. The remedial action being taken;

4. The probable date by which compliance will occur; and,

5. The probability of complying with subsequent and final events as scheduled.

E. The permittee shall report all other instances of permit noncompliance not reported under paragraphs A or B of this section on their monthly DMR submission. The DMR shall contain comments that include the information listed in paragraphs A or B as appropriate.

F. If the permittee becomes aware that it failed to submit an application, or submitted incorrect information in an application or in any report to the director, it shall promptly submit such facts or information.

13. RESERVED

14. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

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15. AUTHORIZED DISCHARGES

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than, or at a level in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such violations may result in the imposition of civil and/or criminal penalties as provided for in Section 309 of the Act and Ohio Revised Code Sections 6111.09 and 6111.99.

16. DISCHARGE CHANGES

The following changes must be reported to the appropriate Ohio EPA district office as soon as practicable:

A. For all treatment works, any significant change in character of the discharge which the permittee knows or has reason to believe has occurred or will occur which would constitute cause for modification or revocation and reissuance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. Notification of permit changes or anticipated noncompliance does not stay any permit condition.

B. For publicly owned treatment works:

1. Any proposed plant modification, addition, and/or expansion that will change the capacity or efficiency of the plant;

2. The addition of any new significant industrial discharge; and

3. Changes in the quantity or quality of the wastes from existing tributary industrial discharges which will result in significant new or increased discharges of pollutants.

C. For non-publicly owned treatment works, any proposed facility expansions, production increases, or process modifications, which will result in new, different, or increased discharges of pollutants.

Following this notice, modifications to the permit may be made to reflect any necessary changes in permit conditions, including any necessary effluent limitations for any pollutants not identified and limited herein. A determination will also be made as to whether a National Environmental Policy Act (NEPA) review will be required. Sections 6111.44 and 6111.45, Ohio Revised Code, require that plans for treatment works or improvements to such works be approved by the Director of the Ohio EPA prior to initiation of construction.

D. In addition to the reporting requirements under 40 CFR 122.41(l) and per 40 CFR 122.42(a), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit. If that discharge will exceed the highest of the "notification levels" specified in 40 CFR Sections 122.42(a)(1)(i) through 122.42(a)(1)(iv).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" specified in 122.42(a)(2)(i) through 122.42(a)(2)(iv).

17. TOXIC POLLUTANTS

The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement. Following establishment of such standards or prohibitions, the Director shall modify this permit and so notify the permittee.

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18. PERMIT MODIFICATION OR REVOCATION

A. After notice and opportunity for a hearing, this permit may be modified or revoked, by the Ohio EPA, in whole or in part during its term for cause including, but not limited to, the following:

1. Violation of any terms or conditions of this permit;

2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

3. Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

B. Pursuant to rule 3745-33-04, Ohio Administrative Code, the permittee may at any time apply to the Ohio EPA for modification of any part of this permit. The filing of a request by the permittee for a permit modification or revocation does not stay any permit condition. The application for modification should be received by the appropriate Ohio EPA district office at least ninety days before the date on which it is desired that the modification become effective. The application shall be made only on forms approved by the Ohio EPA.

19. TRANSFER OF OWNERSHIP OR CONTROL

This permit may be transferred or assigned and a new owner or successor can be authorized to discharge from this facility, provided the following requirements are met:

A. The permittee shall notify the succeeding owner or successor of the existence of this permit by a letter, a copy of which shall be forwarded to the appropriate Ohio EPA district office. The copy of that letter will serve as the permittee's notice to the Director of the proposed transfer. The copy of that letter shall be received by the appropriate Ohio EPA district office sixty (60) days prior to the proposed date of transfer;

B. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) shall be submitted to the appropriate Ohio EPA district office within sixty days after receipt by the district office of the copy of the letter from the permittee to the succeeding owner;

At anytime during the sixty (60) day period between notification of the proposed transfer and the effective date of the transfer, the Director may prevent the transfer if he concludes that such transfer will jeopardize compliance with the terms and conditions of the permit. If the Director does not prevent transfer, he will modify the permit to reflect the new owner.

20. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

21. SOLIDS DISPOSAL

Collected grit and screenings, and other solids other than sewage sludge, shall be disposed of in such a manner as to prevent entry of those wastes into waters of the state, and in accordance with all applicable laws and rules.

22. CONSTRUCTION AFFECTING NAVIGABLE WATERS

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

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23. CIVIL AND CRIMINAL LIABILITY

Except as exempted in the permit conditions on UNAUTHORIZED DISCHARGES or UPSETS, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

24. STATE LAWS AND REGULATIONS

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

25. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

26. UPSET

The provisions of 40 CFR Section 122.41(n), relating to "Upset," are specifically incorporated herein by reference in their entirety. For definition of "upset," see Part III, Paragraph 1, DEFINITIONS.

27. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

28. SIGNATORY REQUIREMENTS

All applications submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR 122.22.

All reports submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR Section 122.22.

29. OTHER INFORMATION

A. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

B. ORC 6111.99 provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $25,000 per violation.

C. ORC 6111.99 states that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $25,000 per violation.

D. ORC 6111.99 provides that any person who violates Sections 6111.04, 6111.042, 6111.05, or division (A) of Section 6111.07 of the Revised Code shall be fined not more than $25,000 or imprisoned not more than one year, or both.

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30. NEED TO HALT OR REDUCE ACTIVITY

40 CFR 122.41(c) states that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of this permit.

31. APPLICABLE FEDERAL RULES

All references to 40 CFR in this permit mean the version of 40 CFR which is effective as of the effective date of this permit.

32. AVAILABILITY OF PUBLIC SEWERS

Not withstanding the issuance or non-issuance of an NPDES permit to a semi-public disposal system, whenever the sewage system of a publicly owned treatment works becomes available and accessible, the permittee operating any semi-public disposal system shall abandon the semi-public disposal system and connect it into the publicly owned treatment works.

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Form SS-4 (Rev. December 2001) Department of the Treasury Internal Revenue Service	Application for Employer Identification Number (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) ▶ See separate instructions for each line. ▶ Keep a copy for your records.	EIN [redacted] OI [redacted]

1* Legal name of entity (or individual) for whom the EIN is being requested
Columbia Park East MHP LLC

2 Trade name of business (if different from name on line 1)	3 Executor, trustee, "care of" name
4a* Mailing address (room, apt., suite no. and street, or P.O. box) 1170 Pittsford Victor Road	5a Street address (if different) (Do not enter a P.O. box)
4b* City, state, and ZIP code Pittsford NY 14534 -	5b City, state, and ZIP code -

6* County and state where principal business is located
County Monroe State NY

7a Name of principal officer, general partner, grantor, owner, or trustor Columbia MHC East LLC	7b SSN, ITIN, EIN [redacted]

8a* Type of entity (check only one)
- ☐ Sole Proprietor (SSN)
- ☐ Partnership
- ☐ Corporation (enter form number to be filed) ▶
- ☐ Personal Service
- ☐ Church or church-controlled organization
- ☐ Other nonprofit organization (specify) ▶
- ☑ Other (specify) ▶ single member llc
- ☐ Estate (SSN of decedent)
- ☐ Plan administrator (SSN)
- ☐ Trust (SSN of grantor)
- ☐ National Guard
- ☐ Farmers' cooperative
- ☐ REMIC
- Group Exemption NO. (GEN) ▶
- ☐ State/local government
- ☐ Federal government/military
- ☐ Indian tribal government/enterprises

8b If a corporation, name the state or foreign country (if applicable) where incorporated	State	Foreign country

9* Reason for applying (check only one)
- ☑ Started new business (specify type) ▶ real estate
- ☐ Hired employees (Check the box and see line 12)
- ☐ Compliance with IRS withholding regulations
- ☐ Other (specify) ▶
- ☐ Banking purpose (specify purpose) ▶
- ☐ Changed type of organization (specify new type) ▶
- ☐ Purchased going business
- ☐ Created a trust (specify type) ▶
- ☐ Created a pension plan (specify type) ▶

10* Date business started or acquired (month, day, year) APR 23 2007	11 Closing month of accounting year DEC

12 First date wages or annuities were paid or will be paid (month, day, year) *Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (month, day, year)* ▶

13 Highest number of employees expected in the next twelve months *Note: If the applicant does not expect to have any employees during the period, enter "-0-"* ▶	Agriculture	Household	Other

14* Check box that best describes the principal activity of your business
- ☐ Construction
- ☐ Rental & leasing
- ☐ Transportation & warehousing
- ☐ Health care & social assistance
- ☐ Wholesale-agent/broker
- ☑ Real estate
- ☐ Manufacturing
- ☐ Finance & insurance
- ☐ Accommodation & food service
- ☐ Wholesale-other
- ☐ Other (specify)
- ☐ Retail

15* Indicate principal line of merchandise sold; specific construction work done; products produced; or services provided.
real estate

16a* Has the applicant ever applied for an employer identification number for this or any other business? ☐ Yes ☑ No
Note: If "Yes" please complete lines 16b and 16c

16b If you checked "Yes" on line 16a, give applicant's legal name and trade name shown on prior application if different from line 1 or 2 above.
Legal name ▶
Trade name ▶

16c Approximate date when, and city and state where, the application was filed. Enter previous employer identification number if known. Approximate date when filed (month, day, year)	City and state where filed	Previous EIN -

Third Party Designee

Complete section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form

Designee's name Jeffrey F DeVoesick Esq	Designee's telephone number (include area code) (585) 641 - 8000
Address and ZIP code 295 Woodcliff Drive Fairport NY 14450 -	Designee's fax number (include area code) (585) 641 - 8080

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete. Name and title (type or print clearly)	Applicant's telephone number (include area code)

EXHIBIT
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E

Columbia-Brook Park Management, LLC
1080 Pittsford-Victor Road, Suite 202
Pittsford, New York 14534
585-381-0570

March 9, 2017

Shirley Horsfall

16 Ash Drive

Olmsted Township, OH 44138

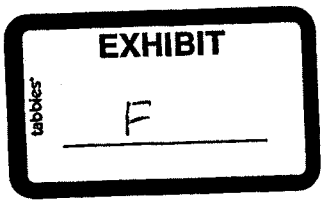
Dear Resident:

Please be advised that you should continue to pay your Columbia Park Water and Sewer bills as normal. Please send all water and sewer payments to the corporate office located at 1080 Pittsford Victor Rd, Suite 202, Pittsford, NY 14534.

Thank you for your attention in the matter.

Very truly yours,

Kenneth C. Burnham
Member
KCB/argls



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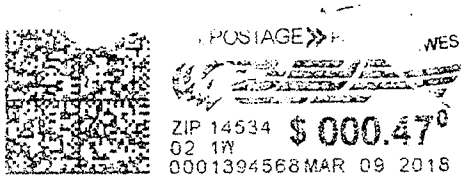
MANAGEMENT OFFICE
1080 Pittsford Victor Road, Suite 202
Pittsford, New York 14534



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IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

G. SCOTTCO INVESTMENT CO., ET AL.,	:	CASE NO. 2005 CVH 10023
Plaintiffs,	:	
v.	:	JUDGE YOUNG
FRANKLIN COUNTY, et al.,	:	MAGISTRATE PETRUCCI
Defendants,	:	
and	:	
STATE OF OHIO,	:	CONSENT ORDER
	:	(Oak Hills MHC and State of Ohio)
Third-Party Plaintiff,	:	
v.	:	
GAYLE SCOTT, Jr., et al. ,	:	
Third-Party Defendant.	:	

Defendant State of Ohio (State), by its Attorney General Mike DeWine, at the written request of the Director of the Ohio Environmental Protection Agency (Ohio EPA), filed Counterclaims for injunctive relief and civil penalties against Plaintiff, Oak Hills Mobile Home Community, LLC (Oak Hills MHC) for violations of Ohio Revised Code (R.C.) Chapter 6111 and the rules promulgated thereunder. After judgment of this Court, the parties consent to the entry of this Order,

NOW, THEREFORE, upon the agreement of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

EXHIBIT
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ATCH G

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I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. Venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the State, Oak Hills MHC, and, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure, their officers, agents, servants, employees, successors, transferees and assigns.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Full compliance with the terms and conditions of this Consent Order shall constitute full satisfaction of all civil liability by Oak Hills MHC for the claims as alleged by the State of Ohio in the Counterclaims against Oak Hills MHC occurring at the wastewater treatment plant (WWTP) located on or about 5965 Harrisburg-Georgesville Road, Pleasant Township, Franklin County, Ohio 43123, through the entry date of this Consent Order.

4. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to take any action authorized by law against Oak Hills MHC and/or any person to enforce the Consent Order though a contempt action for violations of this Consent Order. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against Oak Hills MHC or other appropriate persons for claims or conditions not alleged in the Counterclaim or Third-party Complaint, including violations which occur after the filing of the Consent Order. Similarly, nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to undertake any action against any person, including Oak Hills MHC, to eliminate or mitigate conditions that may present a threat to the public health, welfare, or the

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Exhibit 3

environment. Finally, nothing in this Consent Order shall limit the right of Oak Hills MHC to assert any defenses it may have for any such claims above.

IV. PERMANENT INJUNCTION

5. Oak Hills MHC and its officers, agents, servants, employees, successors, transferees and assigns are hereby permanently enjoined and immediately ordered to comply with the requirements of R.C. Chapter 6111 and the rules adopted thereunder, except as otherwise provided in this Consent Order.

V. POST-CONSENT ORDER VIOLATIONS

6. Violations of R.C. Chapter 6111 related to any discharge from the existing Oak Hills MHC WWTP that occur after the entry of this Consent Order by the Court and before the sewer connection from the MHC to the Franklin County Darbydale sewer system is placed into operation, shall be governed by this Consent Order (stipulated penalties regulating the discharge from the existing MHC WWTP during this time are provided below).

V. INJUNCTIVE RELIEF

7. Oak Hills MHC shall construct the necessary sewer connection facilities and connect the Oak Hills MHC sanitary sewers to the Franklin County sanitary sewer system within twelve (12) months of the entry of this Order and decommission the Oak Hills MHC WWTP, according to the following schedule:

a. Oak Hills MHC shall submit a complete and approvable application for a Permit to Install (PTI) the necessary sewer connection facilities within three (3) months of entry of this Consent Order;

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b. Oak Hills MHC shall commence construction of the sewer connection facilities in accordance with an approved PTI within six (6) months of entry of this Consent Order;

c. Oak Hills MHC shall complete construction of the sewer connection facilities in accordance with an approved PTI within twelve (12) months of the entry of this Consent Order.

d. Within sixty (60) days of connecting to the Franklin County sanitary sewer system, Oak Hills MHC shall decommission the Oak Hills MHC WWTP as follows:

i. Seal or remove the outfall pipe;

ii. Unless the concrete tanks are being used as part of the sewer connection facilities, clean out all wastewater and sludge from the concrete tanks, remove all metal, piping and wire, collapse the concrete tanks in place and raise the area to grade, or dispose of the concrete in accordance with paragraph iii below;

iii. Remove all piping, conduit, steel tanks, and mechanical equipment, such as blowers and pumps, from the site and dispose of it in a licensed construction and demolition debris landfill or solid waste landfill.

8. Oak Hills MHC shall comply with all rules, regulations, and the previous National Pollutant Discharge Elimination System (NPDES) Permit, Permit 4PV00008*ED issued to Oak Hills MHC, while completing connection to the Franklin County sanitary sewer system.

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9. Failure to comply with all rules, regulations, and the previous NPDES permit terms while completing connection to the Franklin County sanitary sewer system will result in the application of stipulated penalties, discussed more fully herein.

VI. CIVIL PENALTY

10. Oak Hills MHC is hereby ordered and enjoined to pay a civil penalty of four hundred thousand dollars ($400,000) to the State of Ohio within thirty (30) days of the date of entry of this Consent Order. Upon payment of the civil penalty, Oak Hills MHC, Ohio EPA and State shall voluntarily dismiss their respective appeals regarding their claims against each party in Case Number 16-AP-000312;

11. Civil penalty payments shall be paid by delivering to the Attorney General's Office, c/o Scott Hainer, Paralegal, or his successor, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a certified or cashier's check payable to the order of "Treasurer State of Ohio" and will be deposited by the Attorney General's Office in accordance with R.C. 6111.09(B).

12. In the event that Oak Hills fails to comply with the terms set forth in paragraph 11 of this Consent Order, the total civil penalty of Four Hundred Thousand Dollars ($400,000.00) plus applicable interest shall become immediately due and owing. Any delinquent payments shall accrue interest at the maximum statutory rate prescribed by R.C. 5703.47 calculated from the effective date of this Order.

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VII. STIPULATED PENALTIES

13. In the event Oak Hills MHC fails to comply with any requirement of this Consent Order, Oak Hills MHC is liable for and shall immediately pay stipulated penalties in accordance with the following schedule for each failure to comply:

a. For each day between twelve (12) to eighteen (18) months of failure to comply with the requirement to complete sewer connection within twelve (12) months – one thousand dollars ($1,000.00) per day;

b. For each day between eighteen (18) to twenty-four (24) months of failure to comply with the requirement to complete sewer connection within twelve (12) months – one thousand five hundred dollars ($1,500.00) per day;

c, For each day after twenty-four (24) months of failure to comply with the requirement to complete sewer connection within twelve (12) months – two thousand dollars ($2,000.00) per day;

d. For each day of failure to comply with the requirements to decommission the WWTP in accordance with Paragraph 8 (d) – one thousand dollars ($1,000.00) per day per requirement not met.

e. For each day of each failure to comply with any interim deadline set forth in Paragraph 8 (a) and (b) – five hundred dollars ($500.00) per day per requirement not met until the deadline is met;

f. For each day of failure to comply with any applicable rule, regulation, or previous NPDES permit term – five hundred dollars ($500.00) per day per requirement not met.

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14. Stipulated penalty payments shall be paid by delivering to the Attorney General's Office, c/o Scott Hainer, Paralegal, or his successor, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a certified or cashier's check payable to the order of "Treasurer State of Ohio" and deposited by the Attorney General's Office in accordance with R.C. 6111.09(B).

VIII. POTENTIAL FORCE MAJEURE

15. If any event occurs which causes or may cause a delay in Oak Hills MHC's compliance with any requirement of this Consent Order, Oak Hills MHC shall notify the Ohio EPA in writing within ten (10) days from when they knew or should have known about the event, describing in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Oak Hills MHC to prevent or minimize the delay and the timetable by which measures will be implemented. Oak Hills MHC will take all reasonable measures to avoid or minimize any such delay.

16. In any action by the State to enforce any of the provisions of this Consent Order, Oak Hills MHC may raise that they are entitled to a defense because their conduct was caused by circumstances entirely beyond their control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the State does not agree that such a defense exists, it is, however, hereby agreed upon by Oak Hills MHC and the State that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced by the State. At that time, Oak Hills MHC will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Oak Hills MHC. Unanticipated or increased costs associated with the implementation of any action required by this

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Consent Order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control of Oak Hills MHC or serve as a basis for an extension of time under this Consent Order unless a Federal Bankruptcy Court decides otherwise. Failure by Oak Hills MHC to comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Oak Hills MHC's right to request an extension of their obligations under this Consent Order based on such incident. An extension of one date or waiver of stipulated penalty based on a particular incident does not mean that Oak Hills MHC qualifies for an extension of a subsequent date or dates or waiver of penalty. Oak Hills MHC must make an individual showing of proof regarding each incremental step or other requirement for which an extension or waiver is sought. Acceptance of this Consent Order with a Potential Force Majeure Clause does not constitute a waiver by Oak Hills MHC of any rights or defenses they may have under applicable law.

IX. RIGHT OF ENTRY

17. The State of Ohio, its agents and employees, shall have full access to the Property, as described in this Consent Order, at any and all reasonable times to observe the work required by this Consent Order, to determine compliance with R.C. Chapter 6111 and other laws it administers, or as otherwise may be necessary for the implementation of this Consent Order.

18. Nothing in this Consent Order shall be construed to limit the State's statutory authority under R.C. Chapter 6111, the rules adopted thereunder, or any other provision of the Revised Code, to obtain or seek access, conduct inspections or surveys, take samples, field evaluations, and/or assessments at, on or near the sites described in this Consent Order.

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X. RETENTION OF JURISDICTION

19. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

XI. COURT COSTS

20. Oak Hills MHC is hereby ordered to pay all court costs of this action as related to Oak Hills MHC's claims against the State and as to the State's claims against Oak Hills MHC.

XII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

21. The parties agree and acknowledge that final approval by the State and Oak Hills MHC, and entry of this Consent Order is subject to the requirement of 40 C.F.R. § 123.27(d)(2)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The State and Oak Hills MHC reserve the right to withdraw this Consent Order based on comments received during the public comment period. Oak Hills MHC shall pay the cost of publishing the public notice.

22. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the Court's journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve upon the Parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XIII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

23. The signatories for Oak Hills MHC represent and warrant that they have been duly authorized to sign this document and bind the corporation and individuals to all terms and conditions thereof.

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IT IS SO ORDERED

2/23/18
DATE

JUDGE YOUNG
COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

APPROVED:

MIKE DEWINE,
OHIO ATTORNEY
GENERAL

L Scott Helkowski

L. Scott Helkowski (0068622)
Tasha Miracle (0092318)
Assistant Attorneys General
Environmental Enforcement Section
Public Protection Division

30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614 644-1926
Lawrence.Helkowski@ohioattorneygeneral.gov
Tasha.Miracle@ohioattorneygeneral.gov

Counsel for State of Ohio

APPROVED:

Oak Hills MHC, LLC

By: Jay G. Mat

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Its: Member
Oak Hills MHC

Samuel N. Lillard (0040571)
250 West Street, Suite 400
Columbus, Ohio 43215
Telephone: (614) 453-7612
Facsimile: (614) 221-1409
slillard@laborlawyers.com

Counsel for Oak Hills MHC, LLC

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Exhibit 3

M. Shapiro Real Estate Group Ohio LLC
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334

March 8, 2017

Via Hand Delivery

Dear Valued Resident:

We would like to inform you of a recent change at Columbia Park. On March 1, 2018, M. Shapiro Real Estate Group Ohio LLC ("Receiver") was appointed as the receiver for Columbia Park by the Court of Commons Pleas for Cuyahoga County, Ohio pursuant to an Order Appointing Receiver (the "Order"). A full copy of the Order is available for your review upon request.

We are pleased to inform you that your home site is secure, **you do not have to vacate the premises as a result of the Order**, and the community will continue to operate as it previously has on a daily basis. Columbia Park will now be managed by the Receiver, who has more than thirty-five (35) years of experience in the manufactured housing industry, and is looking forward to providing community management service to you on behalf of Columbia Park.

Please continue to forward all rent payments and correspondence to the community office address set forth below; or you may continue to hand deliver your rent at the office. If you have any concerns regarding Columbia Park, or for any other resident relation or operations questions, including, but not limited to, common area maintenance and/or emergencies, you should contact the onsite office. All onsite staff, including the Property Manager, Ildi Gristanti, remain the same.

Rent payments should be made payable to: **Columbia Park**
And mailed or hand delivered to: **7100 Columbia Road**
Olmsted Township, OH 44138

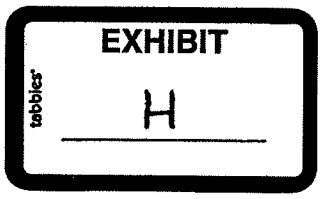
Pursuant to the Order, all decisions relating to the management of Columbia Park will be made by the Receiver and not by the owners of Columbia Park or any agent previously authorized by the owners of Columbia Park to manage the communities and collect the rents. **Furthermore, any rents paid to any person or office other than that noted above will not be credited to your account.**

Thank you in advance for your patience during this transition. We appreciate your business and assure you that we will do our best to provide you with the highest standard of service that you deserve.

Regards,

M. Shapiro Real Estate Group Ohio LLC

Kim Scott
Director – Manufactured Housing



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VanSlyke, David

From: ken burnham <kburnham1452@yahoo.com>
Sent: Friday, March 09, 2018 4:34 PM
To: Weaver, Jeanna
Subject: Fw: CPWSS
Attachments: Notice Columbia Park WSS to PUCO.doc

----- Forwarded Message -----
From: ken burnham <kburnham1452@yahoo.com>
To: "sue.daly@puc.state.oh.us" <sue.daly@puc.state.oh.us>; "sue.daly@puco.ohio.gov" <sue.daly@puco.ohio.gov>; John W. Monroe <jmonroe@mggmlpa.com>; James Martin <jamesm@kdmdevelopment.com>; George DaGraca <georged@kdmdevelopment.com>; Mark Rodio <mrodio@frantzward.com>
Sent: Friday, March 9, 2018 4:31 PM
Subject: CPWSS

EXHIBIT
tabbies
I

Columbia MHC East, LLC dba CPWSS
1080 Pittsford-Victor Road #202
Pittsford, New York 14534

585-586-2828

E-MAIL = KBURNHAM@ROCHESTER.RR.COM

March 9, 2018

Sue Daly/Jody Bair
Public Utilities Commission of Ohio
180 East Broad Street, 3rd Floor
Columbus, Ohio 43215

RE: Illegal actions by the Receiver of real property in the service area of CPWSS
Case # 01-2576-WS-ACE, February 4, 2004.
"COLUMBIA PARK WATER & SEWER SYSTEM...("CPWSS")..... The Applicant provides water and wastewater service to a mobile home park, which includes 1,039 units, a farm house, shopping center, medical building, trolley museum and gas station in Olmstead Township, Cuyahoga County, Ohio."

Dear Ms Daly:

I am requesting that PUCO issue an Order enjoining and preventing the M Shapiro Group, Ohio from interfering with the operations of the CPWSS.

The M Shapiro Group is attempting to interfere with our operations, our Tariff, collecting monies which have been made out to and are due to the CPWSS, and have starting operating the sewer plant without a certificate from PUCO, or permit from NPDES or OEPA in violation of Ohio law,

> Section 4933.25, Revised Code requires "waterworks companies and sewage disposal companies to obtain a certificate from this commission **before** constructing, installing, **or operating a** waterworks or sewage disposal company."

Unfortunately, the mobile home park has gone into receivership due to a maturity default on the mortgage.

Columbia MHC East, LLC dba CPWSS was not a borrower or joinder party in this mortgage, nor was the collateral owned by CPWSS subject to the lien of the mortgage.

As you are aware the Supreme Court of the State of Ohio is the only Court which has oversight over the PUCO:

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" Subject-matter jurisdiction connotes the power to hear and decide a matter upon its merits. *Cheap Escape Co., Inc. v. Haddox, LLC*, 120 Ohio St.3d 493, 2008-Ohio-6323, ¶ 6. The Public Utilities Commission ("commission") has exclusive jurisdiction over matters involving public utilities, such as rates and charges, classifications, and service, effectively denying to all Ohio courts (except the Supreme Court) any jurisdiction over such matters. *State ex rel. Cleveland Elec. Illuminating Co. v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 447, 450 (2000); *see also Kazmaier Supermarket, Inc. v. Toledo Edison Co.*, 61 Ohio St.3d 147, 150-51 (1991) ("The General Assembly has by statute pronounced the public policy of the state that the broad and complete control of public utilities shall be within the administrative agency, the Public Utilities Commission.")."

The service area for the CPWSS is larger than just the mobile home park itself, as noted above; under **RE:**

M Shapiro's actions effect areas outside the encumbered assets of the mobile home park.

Please tell this Company to cease and desist, and Order from the Court of Common Pleas is of no effect with respect to a PUCO regulated utility.

Very truly yours,

Kenneth C. Burnham
Member

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Dear Resident:

Please be advised that you should continue to pay your Columbia Park Water and Sewer bills as normal. Please send all water and sewer payments to the corporate office located at 1080 Pittsford Victor Rd, Suite 202, Pittsford, NY 14534.

Thank you for your attention in the matter.

Very truly yours,

Kenneth C Burnham
Member
Kobbarqis

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EXHIBIT
J

MANSOURGAVIN LPA

John W. Monroe, Esq.
Direct Dial: 216.453.5915
jmonroe@mggmlpa.com

March 12, 2018

BY EMAIL
& BY REGULAR U.S. MAIL

Jeanna M. Weaver, Esq.
Plunkett Cooney
300 East Broad Street, Suite 590
Columbus, Ohio 43215

EXHIBIT
tabbies
K

Re: ***U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Mortgage Pass-Through Certificates, Series 2007-C1 v. Columbia Park East MHP, LLC, et al.***
Cuyahoga County Case No: CV-17-887110

Dear Ms. Weaver:

I have received your letter dated March 9, 2018. The purpose of this letter is to provide additional information for you and the receiver pursuant to your request.

You have requested "All keys for the Mortgage Property" (as defined in the Receivership Order). I am told that all keys for the "Mortgage Property" are at the property and available to the receiver. Other than those keys, our client is unsure what "keys" you are referring to. If you can identify keys that you feel are missing, I would be happy to follow up on specific issues.

You have requested the EINs for both Borrowers. The EIN for Columbia Park East MHP LLC is 20-8893158. I have enclosed a copy of the IRS Form SS-4 for Columbia Park East MHP LLC for your review. You will need to obtain the EIN for Columbia Far West, LLC from Mr. Rodio, its attorney.

You have requested for all bank account for each account related to the Receivership Property. I will forward this information upon receipt.

You have requested all income collected for the Receivership Property as defined by Section 7.2 of the Receivership Order. I understand that any and all income as defined by Section 7.2 of the Receivership Order will be reflected in the bank account statement.

You have requested security deposits, etc. It is my understanding that all of the requested information is available on the Rent Manager software program. Furthermore, it is my understanding that our client has completed the data migration form to allow the

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receiver to access all of the information. Our client has requested on-going access to "view" only mode. Our client is willing to pay for this access.

You have requested the data migration for Rent Manager. I understand that this form has already been sent to the receiver.

Our client denies that any Mortgage Property has been removed from the subject property. Specifically, it is my understanding that the 2005 Ford F-250 truck, VIN No. 1FTNF21515EB08857 and the 2015 Ford F-250 truck, VIN No. 1FTBF2B65FEB89874 are owned by KDM Acquisitions LLC, which is not a Borrower, nor a party to the foreclosure action. I have enclosed copies of the Certificates of Title for your review.

Furthermore, neither the Borrower, nor any party subject to the Receiver Order is the owner of the water billing system. As we have repeatedly explained, the waste water treatment facility is owned and operated by Columbia MHC East LLC, which is a separate entity from the Borrower, Columbia Park East MHP LLC. In fact, the waste water treatment is a licensed public utility governed by PUCO. As we have also indicated, the waste water treatment facility serves other property other than the Mortgage Property. It is our understanding that any proposed operator of the waste water treatment facility would need to be approved by PUCO. We have not received any indication that this approval has been sought or obtained.

Finally, our client denies that it has not cooperated with the receiver. It is my understanding that our client's representative spent a significant amount of time explaining the park operations to the receiver's representative. Our client has attempted to contact the receiver to insure that the employees were paid through the date that the receiver took over the park. To this date, our client has not received a return phone call to make sure that the employees were paid for their work.

Obviously, there is an issue regarding the operation of the waste water treatment plant. The court has acknowledged as much when it granted Columbia MHC East LLC's Motion to File an Amended Answer. We will await further instruction from the Court regarding this issue. It is my understanding that the next billing for the waste water treatment operations is not for another two (2) months.

If you should have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

John W. Monroe

JWM/dat
Enclosures
cc (*with copies of the enclosures*): Columbia Park East MHP LLC
Columbia MHC East LLC
Mark Rodio, Esq.

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Form **SS-4** (Rev. December 2001) Department of the Treasury Internal Revenue Service	**Application for Employer Identification Number** (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) ▶ See separate instructions for each line. ▶ Keep a copy for your records.	EIN [redacted] OMB No. [redacted]

1* Legal name of entity (or individual) for whom the EIN is being requested
Columbia Park East MHP LLC

2 Trade name of business (if different from name on line 1)	3 Executor, trustee, "care of" name
4a* Mailing address (room, apt., suite no. and street, or P.O. box) 1170 Pittsford Victor Road	5a Street address (if different) (Do not enter a P.O. box)
4b* City, state, and ZIP code Pittsford NY 14534 -	5b City, state, and ZIP code -

6* County and state where principal business is located
County Monroe State NY

7a Name of principal officer, general partner, grantor, owner, or trustor Columbia MHC East LLC	7b SSN, ITIN, EIN [redacted]

8a* Type of entity (check only one)
- ☐ Sole Proprietor (SSN)
- ☐ Partnership
- ☐ Corporation (enter form number to be filed) ▶
- ☐ Personal Service
- ☐ Church or church-controlled organization
- ☐ Other nonprofit organization (specify) ▶
- ☑ Other (specify) ▶ single member llc
- ☐ Estate (SSN of decedent)
- ☐ Plan administrator (SSN)
- ☐ Trust (SSN of grantor)
- ☐ National Guard
- ☐ Farmers' cooperative
- ☐ REMIC
- Group Exemption NO. (GEN) ▶
- ☐ State/local government
- ☐ Federal government/military
- ☐ Indian tribal government/enterprises

8b If a corporation, name the state or foreign country (if applicable) where incorporated	State	Foreign country

9* Reason for applying (check only one)
- ☑ Started new business (specify type) ▶ real estate
- ☐ Hired employees (Check the box and see line 12)
- ☐ Compliance with IRS withholding regulations
- ☐ Other (specify) ▶
- ☐ Banking purpose (specify purpose) ▶
- ☐ Changed type of organization (specify new type) ▶
- ☐ Purchased going business
- ☐ Created a trust (specify type) ▶
- ☐ Created a pension plan (specify type) ▶

10* Date business started or acquired (month, day, year) APR 23 2007	11 Closing month of accounting year DEC

12 First date wages or annuities were paid or will be paid (month, day, year) *Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (month, day, year)* ▶

13 Highest number of employees expected in the next twelve months Note: *If the applicant does not expect to have any employees during the period, enter "-0-"* ▶	Agriculture	Household	Other

14* Check box that best describes the principal activity of your business
- ☐ Construction
- ☐ Rental & leasing
- ☐ Transportation & warehousing
- ☐ Health care & social assistance
- ☐ Wholesale-agent/broker
- ☑ Real estate
- ☐ Manufacturing
- ☐ Finance & insurance
- ☐ Accommodation & food service
- ☐ Wholesale-other
- ☐ Retail
- ☐ Other (specify)

15* Indicate principal line of merchandise sold; specific construction work done; products produced; or services provided.
real estate

16a* Has the applicant ever applied for an employer identification number for this or any other business? ☐ Yes ☑ No
Note *If "Yes" please complete lines 16b and 16c*

16b If you checked "Yes" on line 16a, give applicant's legal name and trade name shown on prior application if different from line 1 or 2 above.
Legal name ▶
Trade name ▶

16c Approximate date when, and city and state where, the application was filed. Enter previous employer identification number if known. Approximate date when filed (month, day, year)	City and state where filed	Previous EIN -

Third Party Designee

Complete section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form

Designee's name Jeffrey F DeVoesick Esq Address and ZIP code 285 Wooddliff Drive Fairport NY 14450 -	Designee's telephone number (include area code) (585) 641 - 8000 Designee's fax number (include area code) (585) 641 - 8080

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete. Name and title (type or print clearly)	Applicant's telephone number (include area code)

▶ Robert C Morgan Signature ▶ Not Required	Date ▶ April 23, 2007 GMT	( ) - Applicant's fax number (Includes area code) ( ) -

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OHIO CERTIFICATE OF TITLE

ISSUING CNTY CUYAHOGA
RESIDENT CNTY CUYAHOGA

STATE OF OHIO No. [redacted]

ORIGINAL

ISSUE DATE
10/10/2017

IDENTIFICATION NUMBER
[redacted]

COMMENTS

YEAR	MAKE	MAKE DESCRIPTION
2005	FORD	FORD

PURCHASE PRICE	BODY TYPE	MODEL DESCRIPTION
$0.00	PT	SRW SUPER DUTY

TAX	MILEAGE	EVIDENCE
$0.00	57,030	[redacted]

CONVERSION

MILEAGE BRAND ACTUAL

BRAND(S)

OWNER
KDM ACQUISITIONS LLC

7100 COLUMBIA RD
OLMSTED FALLS, OH 44138

PREVIOUS OWNER
KDM DEVELOPMENT CORP

7100 COLUMBIA RD
OLMSTED TWP, OH 44138

LICENSE EXPIRES 05/25/16
TRANSFER ISSUED 5-31-17
CK WT.
Registrar of Motor Vehicles

VOID IF ALTERED

LIEN DISCHARGE
Lienholder
by:
Authorized signature date
CLERK LIEN CANCELLATION
by:
Deputy Clerk date

LIEN DISCHARGE
Lienholder
by:
Authorized signature
CLERK LIEN CANCELLATION
by:
Deputy Clerk date

WITNESS MY HAND AND OFFICIAL SEAL THIS 10TH DAY OF OCTOBER

%141402427

(SEAL)

FISCAL OFFICE CUYAHOGA COUNTY, OHIO

* % 1 4 1 4 0 2 4 2 7 *
%141402427

DENNIS G KENNEDY
CLERK OF COURTS

JSK
JSK

DO NOT ACCEPT TITLE SHOWING ANY ERASURES, ALTERATIONS OR MUTILATIONS.

BMV 3800 4/16 [760-1503]

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OHIO CERTIFICATE OF TITLE

[redacted] STATE OF OHIO [redacted]

RESIDENT UNIT: CUYAHOGA

ORIGINAL

ISSUE DATE
10/10/2017

IDENTIFICATION NUMBER
[redacted]

YEAR: 2015 | MAKE: FORD | MAKE DESCRIPTION: FORD

COMMENTS

PURCHASE PRICE: $0.00 | BODY TYPE: PT | MODEL DESCRIPTION: F250

TAX: $0.00 | MILEAGE: 20,562 | EVIDENCE: [redacted]

CONVERSION

MLG BRAND: ACTUAL

BRAND(S)

OWNER
KDM ACQUISITIONS LLC

7100 COLUMBIA RD
OLMSTED TWP, OH 44138

PREVIOUS OWNER
KDM DEVELOPMENT CORP

7100 COLUMBIA RD
OLMSTED TWP, OH 44138

LICENSE EXPIRES PJP1643
TRANSFER ISSUED 5-31-18
TRUCK WT.
Registrar of Motor Vehicles

VOID IF ALTERED

LIEN DISCHARGE
Lienholder
by:
Authorized signature date
CLERK LIEN CANCELLATION
by:
Deputy Clerk date

LIEN DISCHARGE
Lienholder
by:
Authorized signature date
CLERK LIEN CANCELLATION
by:

WITNESS MY HAND AND OFFICIAL SEAL THIS 10TH D/

%141402428

(SEAL)

FISCAL OFFICE
CUYAHOGA COUNTY, OHIO

%141402428

%141402428

DENNIS G KENNEDY
CLERK OF COURTS

JSK
JSK

VOID IF ALTERED

DO NOT ACCEPT TITLE SHOWING ANY ERASURES, ALTERATIONS OR MUTILATIONS.

BMV 3800 4/16 [760-1503]

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1,

Plaintiff

Vs.

Columbia Park East MHP, LLC, et al,

Defendants.

Case No. CV-17-887110

Judge Carolyn B. Friedland

RECEIVER'S *EMERGENCY* MOTION TO SHOW CAUSE

M. Shapiro Real Estate Group Ohio LLC, acting in its capacity as Receiver ("Receiver"), by and through undersigned counsel and pursuant to the Court's March 1, 2018 Order Appointing Receiver ("Receivership Order") and pursuant to Civ. R. 65, moves the Court for an Order that Defendants Columbia Park East MHP LLC ("Columbia Park East"); Columbia MHC East, LLC; Columbia Park Manufactured Home Sales, Inc.; Robert D. Morgan; George Dagaraca; James A. Martin; Steven J. Gordon ("Columbia Park Defendants"); Kenneth C. Burnham and their respective property manager(s), managers, members, agents and employees, representatives show cause for their failure to comply with the Receivership Order.[1]

Basis for this Motion is more fully explained in the attached and incorporated Brief in Support.

[1]This is the first of two Motions to Show Cause that will be filed relative to this action. The second Motion will address the contention that the waste water treatment plant at Columbia Park is not part of the mortgaged premises. In order to fully address that issue, Receiver is awaiting on additional information.

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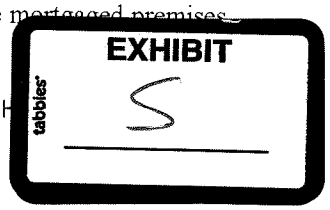

Respectfully submitted,

PLUNKETT COONEY

/s/ Jeanna M. Weaver
Jeanna M. Weaver (0075186)
David L. Van Slyke (0077721)
300 East Broad Street, Ste. 590
Columbus, Ohio 43215
Tel: (614) 629-3000; Fax: (614) 629-3019
jweaver@plunkettcooney.com
dvanslyke@plunkettcooney.com
Counsel for M. Shapiro Real Estate Group Ohio LLC

BRIEF IN SUPPORT

I. Relevant Facts

As a result of defaults on an underlying $55,000,00.00 loan secured by two manufactured home parks commonly known as Columbia Park and Brook Park, this Court entered the Receivership Order on March 1, 2018. The Receivership Order provides in relevant part, as follows:

> 1.1 As of the Effective Date, the Receiver is authorized to directed to take immediate possession and full control of the Receivership Property and ... to take such other actions as the Receiver deems reasonable and appropriate to take possession of, to exercise full control over, to prevent waste, and to preserve, manage, secure and safeguard the Receivership Property.
>
> 1.3 The Borrowers are ordered to make available to the Receiver and/or its agents at the Receivership Property the following items for purposes of transitioning the management of the Receivership Property to the Receiver, to the extent said items are in the Borrowers' or its agents' or representatives' reasonable possession and control (Borrowers shall request its agents and representatives to cooperate) and not already in Plaintiff's possession and control and/or publicly available:
>
> a. All keys.
> b. Year-end 2016 operating statements, and year-to-date 2017 operating statements.
> c. All on-site employee payroll records and employee files and applications (to the extent not Confidential information, as defined below).
> d. An inventory of all equipment, furniture, vehicles, and supplies.
> e. Original titles for any community-owned manufactured homes;

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f. Copies of any and all titles for any manufactured homes owned by Borrower that do not constitute Receivership Property;
g. Any and all reports pertaining to the Receivership Property including, but not limited to, environmental assessments, physical condition reports, and any information pertaining to pending or deferred maintenance or capital improvements;
h. All non-Confidential Information of Borrower about customers, tenants, current orders, and accounts receivable.
i. All existing service contracts.
j. All pending bids for contract work.
k. All insurance policies on the Receivership Property and the terms thereof.
l. Information regarding all insurance claims affecting the Receivership Property that have been submitted in the past three (3) years.
m. Site plans, specifications, floor plans, drawings, measurements, etc.
n. Documents identifying and summarizing al pending litigation (excluding this action) affecting the Receivership Property.
o. All non-Confidential Information of Borrowers relating to the Receivership Property set forth in documents, books, records, computer fils, computer equipment, software, management files, equipment, furniture, supplies, and all passwords needed to access all such software and computer files.
p. All documents reflecting payables and vendor information.
q. All information concerning real estate taxes and personal property taxes.
r. A list of all utilities and utility accounts.
s. All leases including all communication/correspondence files.
t. Documents pertaining to all pending new leases/renewals.
u. A current rent roll showing name of each tenant, and for each tenant, the space occupied, the lease commencement and expiration date, the rents payable, the aged accounts receivables, the ret paid to date, the security deposit being held for said tenant, and a comparative sales report, each in reasonable detail.
v. Tenant contact names and telephone numbers.
w. The occupant ledgers.
x. All security deposits, security deposit accounts, and an accounting for all security deposits.
y. All cash on hand including, without limitation, (1) petty cash, (ii) tenant/lessee security deposits, (iii) deposits held in escrow for any purpose, such as for payment of real estate taxes and insurance premiums, (iv) proceeds of insurance maintained for or pertaining to the Receivership Property, (v) rents or prepaid rents, (vi) reserves or other funds designated or intended for capital improvements, repairs, replacements, or renovations to, or in connection with, the Receivership Property, (vii) all other sums of any kind relating to or owed for the use, enjoyment, possession, improvement, maintenance, repair or occupancy of all or a portion of the Receivership Property.
z. A current aged accounts receivables/delinquency report.
aa. An aged listing of all trade payables and other payables
bb. A list of all historical operations expenses for the Property.
cc. A current balance sheet.

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dd. A current statement of income and expenses.
ee. A statement of cash flows.
ff. A cash flows forecast addressing the remaining calendar year.
gg. A budget vs. actual variance report.
hh. A leasing activity report.
ii. A capital expenditures report.
jj. Copies of bank statements with monthly reconciliations.
kk. Such other non-Confidential information (and non-proprietary) records of Borrowers pertaining to the management of the Receivership Property as may reasonably be requested by the Receiver.

1.5 The Borrowers and their employees, officers, members, or directors are prohibited from removing any material personal property belonging to the Borrowers from the Receivership Property, or diverting any Income which is collateral for Plaintiff's loan.

7.1 "Receivership Property" means and includes:

(a) The Mortgaged Property.

(b) All tangible and intangible property, including intellectual property, used or useable in connection with the operations of the Real Estate....

***

(g) All fixtures, trade fixtures or tenant improvements of every kind or nature located in or upon or attached to or used or intended to be used in connection with the operation of the Real Estate and any buildings, structures or improvements located on the Real Estate ....

(h) All permits, licenses, other contracts, and other intangible property pertaining to the Mortgaged Property and the operations of the Mortgaged Property.

8.1 ...The Borrowers are enjoined from retaining a management firm for the Receivership Property or from otherwise interfering with the Receiver's retention of a management firm for the Receivership Property.

14.7 The Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order, and all those having claims against the Receivership Property, who receive notice of this Order, are enjoined from and shall not:

(c) Terminate Any Utility Service. Terminate or withhold any .... other utility service supplying the Receivership Property....or otherwise interfere with the continued operations of the Receivership Property,

(d) Interfere with the Receiver. Directly or indirectly intentionally, in bad faith, interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management... of the Receivership Property.

(f) Impair the Preservation of the Receivership Property. Intentionally, in bad faith do any act which will, or that will tend to impair, defeat, divert, prevent or prejudice the preservation of the Receivership Property, including

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> the Income, or the preservation of Plaintiff's interest in the Receivership Property and the Income.

One day after entry of the Receivership Order, Columbia Park East's management company, KDM Development Corp. ("KDM")[2] directed the on-site property manager, Ildi Gristanti, to remove the entire water billing system for the Mortgaged Property[3], including but not limited to the computer, printer, all software and related items. *See Affidavit of Ildi Grsitanti attached as* ***Exhibit A***. The water billing system is critical to handle the billing of sewer and water usage for nearly 1,500 senior residents that reside at Columbia Park and negates any ability to on the part of the Receiver to monitor, let alone account for, sewer and water usage of the residents. *See Affidavit of Kimberly Scott attached as* ***Exhibit B.***

In addition to the issues relative to the removal of the water billing system from the premises, on March 6, 2018, Receiver provided KDM a letter detailing the critical items they needed to transition the Mortgaged Property along with a copy of the Receivership Order. *A copy of Receiver's email on March 6, 2018 and letter are attached as* ***Exhibit C***. Receiver, through counsel, sent an additional letter to Borrower's counsel on March 9, 2018 demanding turnover of the items required by the Receivership Order. *A copy of Receiver's counsel's March 9, 2018 letter is attached as* ***Exhibit D***.

Further, consistent with the Receivership Order, on March 8, 2018, Receiver advised the tenants at the Mortgaged Property follows:

> We would like to inform you of a recent change at Columbia Park. On March 1, 2018, M. Shapiro Real Estate Group Ohio LLC ("Receiver") was appointed as the receiver for Columbia Park by the Court of Commons Pleas for Cuyahoga County, Ohio pursuant to an Order Appointing Receiver (the "Order"). A full copy of the Order is available for your review upon request.

---

[2]KDM's website, www.kdmdevelopment.com, lists Columbia Park as an asset that KDM manages.

[3] All capitalized terms not defined herein shall have the meaning set forth in the Receivership Order.

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We are pleased to inform you that your home site is secure, you do not have to vacate the premises as a result of the Order, and the community will continue to operate as it previously has on a daily basis. Columbia Park will now be managed by the Receiver, who has more than thirty-five (35) years of experience in the manufactured housing industry, and is looking forward to providing community management service to you on behalf of Columbia Park.

Please continue to forward all rent payments and correspondence to the community office address set forth below; or you may continue to hand deliver your rent at the office. If you have any concerns regarding Columbia Park, or for any other resident relation or operations questions, including, but not limited to, common area maintenance and/or emergencies, you should contact the onsite office. All onsite staff, including the Property Manager, Ildi Gristanti, remain the same.

Rent payments should be made payable to:	Columbia Park
And mailed or hand delivered to:	7100 Columbia Road
	Olmsted Township, OH 44138

Pursuant to the Order, all decisions relating to the management of Columbia Park will be made by the Receiver and not by the owners of Columbia Park or any agent previously authorized by the owners of Columbia Park to manage the communities and collect the rents. Furthermore, any rents paid to any person or office other than that noted above will not be credited to your account.

Thank you in advance for your patience during this transition. We appreciate your business and assure you that we will do our best to provide you with the highest standard of service that you deserve.

A copy of the tenant notification letters are attached as **Exhibit E.**

Presumably in response to Receiver's tenant notification letters, on March 9, 2018, Defendant Kenneth Burnham ("Burnham") on behalf of non-party Columbia-Brook Park Management, LLC ("CBPM") (a related entity controlled by Burnham and purported property manager of Columbia Park), sent a letter to the tenants of Columbia Park directing that they send their water and sewer payments to a different address. A copy of the *March 9, 2018 Letter* is attached as **Exhibit F**. Burnham's March 9, 2018 letter to the tenants directly interferes with the Receiver's duties under the Receivership Order and creates unnecessary confusion to this senior community.

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Equally as troubling, as of the date of this Motion, and after multiple requests, Receiver has not received any information on Columbia Park East's bank accounts, any funds from Borrowers to operate the properties, and reconciliation of moneys collected by Borrowers or completion of a data migration form for Rent Manager that permits the transfer of all historical data for each tenant along with current balances, rent payments and security deposit held[4]. The Rent Manager form is critical to establish accounts for each tenant. In addition, the following items required pursuant to Section 1.3 of the Receivership Order have still not been provided:

> a. Year-end 2016 operating statements, and year-to-date 2017 operating statements.
>
> ...
>
> d. Original titles for any community-owned manufactured homes;
>
> e. Any and all reports pertaining to the Receivership Property including, but not limited to, environmental assessments, physical condition reports, and any information pertaining to pending or deferred maintenance or capital improvements;
>
> f. All non-Confidential Information of Borrower about customers, tenants, current orders, and accounts receivable.
>
> ...
>
> m. All non-Confidential Information of Borrowers relating to the Receivership Property set forth in documents, books, records, computer fils, computer equipment, software, management files, equipment, furniture, supplies, and all passwords needed to access all such software and computer files.
>
> ....
>
> s. A current rent roll showing name of each tenant, and for each tenant, the space occupied, the lease commencement and expiration date, the rents payable, the aged accounts receivables, the ret paid to date, the security deposit being held for said tenant, and a comparative sales report, each in reasonable detail.
>
> ...
>
> w. All cash on hand including, without limitation, (1) petty cash, (ii) tenant/lessee security deposits, (iii) deposits held in escrow for any purpose, such as for payment of real estate taxes and insurance premiums, (iv) proceeds of insurance maintained for or pertaining to the Receivership Property, (v) rents or prepaid rents, (vi) reserves or other

[4] Borrower provided Rent Manager a signed copy of the data migration form on March 14, 2018, but refused to authorize the transfer of any historical data for each tenant, which is necessary for the operations of the Receivership Property. Columbia Park Defendants and/or Burnham are also refusing to authorize Rent Manager to provide a copy of the data migration form to Receiver.

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> funds designated or intended for capital improvements, repairs, replacements, or renovations to, or in connection with, the Receivership Property, (vii) all other sums of any kind relating to or owed for the use, enjoyment, possession, improvement, maintenance, repair or occupancy of all or a portion of the Receivership Property.

Accordingly, Receiver requests that Columbia Park Defendants and Defendant Burnham be ordered to show cause why they should not be held in contempt of court for failing to comply with the Receivership Order.

III. Law & Argument

A. Receiver is Entitled to an Order upon Columbia Park Defendants and Defendant Burnham to Show Cause Why They Should Not Be Held in Contempt of Court for Violating the Receivership Order.

R.C. §2705.02, which as follows, provides this Court with authority to hold Columbia Park Defendants and Defendant Burnham in contempt for failure to comply with the command of the Receiver:

> A person found guilty of any of the following acts may be punished as for contempt . . . Disobedience of, or resistance to, a lawful writ, process, order, rule, judgment or command of a court or officer...

Ohio law recognizes receivers to be officers of the court. *Hummer v. Hummer*, 2011-Ohio-3767, 2011 WL 3275614 ¶23 (8th Dist. 2011); *PNC Bank, N.A. v. J&J Slyman, L.L.C.*, 2015-Ohio-2951, 2015 WL 4506915 ¶35-36 (8th Dist. 2015). Additionally, although R.C. §2705.02 provides statutory authority to punish contempt, "a common pleas court has both inherent and statutory power to punish contempts" through contempt proceedings. *Bert v. Dodge*, 65 Ohio St. 3d 34, 35 (1992). The primary purpose of contempt proceedings is "to secure the dignity of the courts and the uninterrupted and unimpeded administration of justice." *Denovcheck v. Board of Trumbull County Comm'rs*, 36 Ohio St.3d 14, 16 (1988).

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Civil contempt is defined as that which exists in failing to do something ordered to be done by the court in a civil action for the benefit of the opposing party therein. *Sancho v. Sancho*, 114 Ohio App. 3d 636, 642 (3d Dist. 1996). Contemptuous conduct is further defined as, that "which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions." *Denovchek*, 36 Ohio St. 3d at 15. Contempt may be categorized as either direct or indirect. *Segovia v. Likens*, 179 Ohio App. 3d 256, ¶22 (10th Dist. 2008). Indirect contempt occurs outside the presence of the court and demonstrates a lack of respect for the court or its lawful orders including "[d]isobedience of, or resistance to, a lawful writ, process, order, rule, judgment, or command of a court or officer" constitutes indirect contempt. R.C. §2705.02(A).

Columbia Park Defendants and Defendant Burnham has consciously disobeyed and resisted a lawful process of this Court by failing to comply with a command of an officer of the court. Indeed, Columbia Park Defendants and Burnham have failed to provide necessary items to transition the Receivership Property to the Receiver and removed personal property critical to the operation of the Receivership Property in violation of the Receivership Order.

III. Conclusion

WHEREFORE, Receiver request that this Court schedule an emergency hearing requiring Columbia Park Defendants and Burnham to show cause for their failure to comply with the Receivership Order and interfering with the Receiver's duties and request that Columbia Park Defendants and Burnham reimburse the Receiver for all attorneys' fees associated with the filing of this Motion.

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Respectfully submitted,

PLUNKETT COONEY

/s/ Jeanna M. Weaver
Jeanna M. Weaver (0075186)
David L. Van Slyke (0077721)
300 East Broad Street, Ste. 590
Columbus, Ohio 43215
Tel: (614) 629-3000; Fax: (614) 629-3019
jweaver@plunkettcooney.com
dvanslyke@plunkettcooney.com
Counsel for M. Shapiro Real Estate Group Ohio LLC

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing pleading was sent via electronic mail on this 15th day of March 2018 to:

John W. Monroe
Kathryn E. Weber
Brandon P. Friesen
JMonroe@mggmlpa.com
Counsel for Defendants Columbia Park East MHP LLC; Columbia MHP East LLC; Columbia Park Manufactured Home Sales, Inc.; Robert C. Morgan; Gorge Dagraca; James A. Martin; Steven J. Gordon

Mark Rodio
Frantz Ward
mrodio@frantzward.com
Counsel for Defendants Columbia Far West, LLC and Columbia West Investors, LLC

Kenneth C. Burnham
kburnham1452@yahoo.com
Defendant

John J. Rutter
Roezel
JRutter@ralaw.com
Counsel for Plaintiff

and via regular U.S. Mail, postage prepaid on this 15th day of March 2018, to:

AAA Electric Service Inc.
c/o W. James Mayer, Jr., Statutory Agent
112 Rebecca Land
Brunswick, Ohio 44212
Defendant

Gerald E. Brookins Museum of Electric Railways, Inc.
7100 Columbia Road
Olmsted Township, Ohio 44138
Defendant

Clear Chanel Outdoor
c/o CT Corporation System, Statutory Agent
4400 Easton Commons Way, Ste. 125
Columbus, Ohio 43219
Defendant

Hannah F. G. Singerman
310 W. Lakeside Ave., 3rd Floor
Cleveland, Ohio 44113
Counsel for Cuyahoga County Treasurer

Richard A. Baumgart
55 Public Square, Ste. 2100
Cleveland, Ohio 44113
Counsel for Defendant Olmsted Cable Company dba Cox Communications

Robert C. Reed
33977 Chardon Road
Willoughby Hills, Ohio 44094
Counsel for Defendant Olmsted Cable Company dba Cox Communications, c/o Robert C. Reed, Statutory Agent

/s/ Jeanna M. Weaver
Jeanna M. Weaver (0075186)

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EXHIBIT A

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1,

Case No. CV-17-887110

Judge Carolyn B. Friedland

Plaintiff

Vs.

Columbia Park East MHP, LLC, et al,

Defendants.

AFFIDAVIT OF ILDI GRISANTI

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Ildi Grisanti, having been duly sworn, deposes and says:

1. I have personal knowledge of the events described herein, and I am competent to testify to the statements contained herein.

2. I have been employed at the manufactured home park commonly known as Columbia Park, located at 7100 Columbia Road, Olmsted Township, Ohio, as the onsite property manager since June 19, 2017 and an employee since September 6, 2011.

3. As property manager at Columbia Park, I have been an employee of KDM Development Corporation and KDM Acquisitions LLC ("KDM").

4. I have never been an employee of Columbia-Brook Park Management, LLC ("CBPM").

5. M. Shapiro Real Estate Group Ohio LLC ("Receiver"), as court appointed receiver in

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the above captioned matter, has retained me as their onsite property manager for Columbia Park.

6. Before entry of the Order Appointing Receiver on March 1, 2018, Columbia Park tenants' were directed to make separate payments for rent and water/sewer charges to CBPM. Both payments were deposited into the same bank account.

7. I am familiar with the record keeping system employed by KDM relative to Columbia Park and the waste water treatment plant located ("WWTP") thereon.

8. I was phoned on March 2, 2018, in which I was instructed by George DeGraca and Ken Burnham to remove the water billing system for the WWTP, which included all hardware, software, manuals and any related items (collectively, the "Water Billing System") and place the Water Billing System inside two trucks along with home titles and tanks and to not provide the same to the court-appointed receiver.

9. Based upon the instruction by George DeGraca and Ken Burnham, I physically removed the Water Billing System and left the Water Billing System, among other items, in the trucks and left the trucks unlocked with the keys under the floor mats. The trucks were removed on Saturday, March 3, 2018.

10. The Water Billing System is critical to handle the billing of water and sewer usage to the residents of Columbia Park and without such system, the Receiver is unable to fully manage Columbia Park.

FURTHER AFFIANT SAYETH NOT.

Ildi Grisanti

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State of Ohio
County of Cuyahoga

Before me, Ildiko Grisanti, the undersigned officer, on this, the 14th day of March, 2018, personally appeared Ildi Grisanti, the person and officer whose name is subscribed to the foregoing instrument, and being authorized to do so, acknowledged that she had executed the foregoing instrument in the capacity stated.

(seal)

CRYSTAL L FRANKOVIC
Notary Public, State of Ohio
My Comm.: Expires 3-9-2022
Recorded in the County of Cuyahoga

Printed Name: Crystal L. Frankovic
Notary Public, State of Ohio
Commission No.: _____
My Commission Expires: 03-09-2022

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EXHIBIT B

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

U.S. Bank National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1,

Case No. CV-17-887110

Judge Carolyn B. Friedland

Plaintiff

Vs.

Columbia Park East MHP, LLC, et al,

Defendants.

AFFIDAVIT OF KIMBERLY SCOTT

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Kimberly Scott, having been duly sworn, deposes and says:

1. I have personal knowledge of the events described herein, and I am competent to testify to the statements contained herein.

2. I am the Director of Property Management – Manufactured Housing Division at M. Shapiro Real Estate Group of Ohio LLC ("Receiver"), and am in charge of the manufactured home park commonly known as Columbia Park ("Columbia Park"), located at 7100 Columbia Road, Olmsted Township, Ohio pursuant to the Order Appointing Receiver entered on March 1, 2018 ("Receivership Order") in the above captioned case.

3. The Receivership Order required the following, among others, to be turned over to the Receiver:

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(i) All bank account information for each account related to the Receivership Property;

(ii) All Income collected for the Receivership Property whether received prior to or after March 6, 2018, the effective date of the Receivership Order;

(iii) Security deposits, operating budgets, invoices, service contracts, leases, rent rolls, documents, books, records, rent collection status/delinquency reports, current legal (eviction) correspondence/legal notices, income and expense statements, utility bills, utility account information, CAM reconciliations, executed and unexecuted service proposals, all environmental reports, municipal/governmental correspondence, inspection reports, violations, surveys, site plans, engineering reports and studies, title insurance commitments and policies, listing agreements, purchase agreements, letters of intent to purchase, and property tax bills;

4. Receiver has also requested that defendants complete a data migration form for Rent Manager which establishes accounts for each tenant to tract security deposits, rents, delinquencies, expenses, etc.

5. Upon information and belief, any records that are not onsite at Columbia Park are held by Columbia Park East MHP LLC ("Columbia Park East").

6. As of the date of this Affidavit, the above information has not been fully provided by Columbia Park East or their former property management company.

7. There is a waste water treatment plant ("WWTP") located in Columbia Park.

8. Without the billing hardware, software and all related items for the WWTP and water system, the Receiver is unable to fully manage and control Columbia Park.

FURTHER AFFIANT SAYETH NOT.

Kimberly Scott, Director of Property Management – Manufactured Housing Division, M. Shapiro Real Estate Group of Ohio LLC

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State of Michigan
County of Oakland

Before me, Kimberly Scott, the undersigned officer, on this, the 15th day of March, 2018, personally appeared Kimberly Scott, the person and officer whose name is subscribed to the foregoing instrument, and being authorized to do so, acknowledged that she had executed the foregoing instrument in the capacity stated.

(seal) _____

Printed Name: Cherie Shown
Notary Public, State of MI
Commission No.: _____
My Commission Expires: 11/27/2018

CHERIE SHOWN
Notary Public, State of Michigan
County of Oakland
My Commission Expires Nov. 27, 2018
Acting in the County of Oakland

CHERIE SHOWN NOTARY PUBLIC COUNTY OF OAKLAND MY COMMISSION EXPIRES NOV 27, 2018 ACTING IN THE COUNTY OF OAKLAND STATE OF MICHIGAN

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EXHIBIT C

From: Sam Madorsky <Smadorsky@mshapirorealestate.com>
Date: March 6, 2018 at 3:51:19 PM EST
To: "'dianev@kdmdevelopment.com'" <dianev@kdmdevelopment.com>
Cc: Mark Kassab <Mkassab@mshapirorealestate.com>, Kim Scott <KScott@mshapirorealestate.com>,
Julie Barnett <JBarnett@mshapirorealestate.com>, "'Jamesm@kdmdevelopment.com'" <Jamesm@kdmdevelopment.com>
Subject: Order Appointing Receiver over COLUMBIA PARK EAST MHP LLC, ET AL. - Case No. CV-17-887110

Good Afternoon Diane,

Thank you for taking the time to talk with me today regarding the Columbia Park receivership.

Please see the attached letter and court order.

I have also attached the data migration form for Rent Manager. Sections II, IV and V of the form need to be completed on your end.

We will let you know the date of the migration once Rent Manager has confirmed the timing on their end. They will likely call you as well to authorize the initiation of the migration.

Julie Barnett is our Accounting Director and can provide any clarification needed regarding the Rent Manager migration. Her contact information is:

Julie Barnett
M. Shapiro Real Estate Group
31550 Northwestern Hwy., Suite 220

Farmington Hills, MI 48334
P: 248.865.0066 F: 248.406.0283
www.mshapirorealestate.com
JBarnett@mshapirorealestate.com

There are several items that are required to be turned over to complete the transition of operations per the Order (Section 1.3); however, a few are needed as soon as possible:

- EIN # for each ownership entity
- Payroll roster information
    - Employee name, whether paid hourly or salary and compensation/benefits/accrued vacation
- Payroll schedule (paid on the 1st and 15th, every other Friday, etc.)?
- Utility account information
- Any accounts or services paid via ACH or direct withdrawal
- Recurring service contract information
- Insurance – please provide copies existing policies and certs
    - M. Shapiro Real Estate Group Ohio LLC is to be added as additional insured per Section 1.6 of the Order
- Security deposits – please remit with a ledger, the check can be payable to the property entity and mailed to our office (address in my signature)

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- Income collected since the date of the Order - the check can be payable to the property entity and mailed to our office (address in my signature)
- Open governmental/municipal violations

Several other items are required to be turned over per section 1.3 of the Order but are not necessary to immediately begin transition of management.
We will be on-site on Thursday morning to meet with the staff.
Feel free to call if you have any questions.
Regards,
Sam Madorsky
M. Shapiro Real Estate Group
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334
(P) 248-865-0066
(F) 248-865-1166
smadorsky@mshapirorealestate.com
www.mshapirorealestate.com

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M. SHAPIRO
Real Estate Group

March 5, 2018

John W. Monroe, Esq.
Mansour Gavin LPA
North Point Tower
1001 Lakeside Ave., Suite 1400
Cleveland, OH 44114

VIA ELECTRONIC MAIL

Re: Order Appointing Receiver over COLUMBIA PARK EAST MHP LLC, ET AL.
Case No. CV-17-887110

Dear Mr. Monroe:

As you are aware, an Order Appointing Receiver (the "Order") was entered in the Court of Common Pleas in Cuyahoga County, Ohio on March 1, 2018, in connection with the matter of U.S. Bank, National Association, as Trustee for the Registered Holders of Merrill Lynch Mortgage Trust 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1 vs. Columbia Park East MHP LLC, et al. (Case No. CV-17-887110), appointing M. Shapiro Real Estate Group Ohio, LLC as the Receiver for certain property as is more specifically set forth in the Order (the "Property"). Enclosed please find a copy of the Order for your reference.

Pursuant to Section 1.3 of the Order, please forward, cause to be forwarded or made available to the undersigned set forth below all of the items that are required to be delivered pursuant to the Order, including, but not limited to the following: (i) all keys for the Property, (ii) income collected for the Property from and after the effective date of the Order, and (iii) security deposits, operating budgets, moneys, invoices, service contracts, leases, rent rolls, documents, books, records, work papers, rent collection status/delinquency reports, current legal (eviction) correspondence/legal notices, income and expense statements, utility bills, utility account information, CAM reconciliations, executed and unexecuted service proposals, all environmental reports, municipal/governmental correspondence, inspection reports, violations, surveys, site plans, engineering reports and studies, title insurance commitments and/or policies, listing agreements, purchase agreements, letters of intent to purchase, active and/or inactive property and liability insurance, and property tax bills.

If you have any questions regarding this matter, please feel free to contact me directly at (248) 865-0066.

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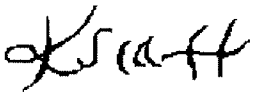
Very truly yours,



Kimberly A. Scott
Authorized Agent

KAS/sim
Enclosure

CC: John J. Rutter, Roetzel & Andress, LPA – Attorney for Plaintiff
File

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PLUNKETT COONEY

EXHIBIT D

March 9, 2018

VIA E-MAIL (jmonroe@mggmlpa.com and mrodio@frantzward.com)

John W. Monroe, Esq.
Mansour Gavin LPA
North Point Tower
1001 Lakeside Ave., Suite 1400
Cleveland, Ohio 44114

Mark L. Rodio, Esq.
Frantz Ward LLP
200 Public Square, Suite 3000
Cleveland, Ohio 44114

RE: U.S. Bank National Association, as Trustee vs Columbia Park East MHP LLC, Case No. CV17-887110 ("Foreclosure") and Order Appointing Receiver entered March 1, 2018 ("Receivership Order")

Dear Mr. Monroe and Mr. Rodio:

This firm represents M. Shapiro Real Estate Group Ohio LLC ("Receiver") in its capacity as the court appointed receiver in the Foreclosure. Pursuant to the Receivership Order, Columbia Park East MHP LLC and Columbia Far West, LLC (collectively, "Borrower") were ordered to turn over to Receiver and its agents all items listed in Paragraph 1.3 of the Receivership Order. In its March 5, 2018 letter, Receiver made demand to Mr. Monroe for the turnover of the items in Paragraph 1.3. As of the date of this letter Borrower has failed to comply and is in violation of the Receivership Order.[1]

Pursuant to the Receivership Order and in accordance with the Receiver's March 5, 2018 letter, demand is again made that all the items listed in Paragraph 1.3 of the Receivership Order be delivered or made available to the Receiver no later than **5:00p.m. EST on Monday, March 12, 2018**. The most critical items needed first are the following and should be provided to the Receiver today:

(i) All keys for the Mortgage Property (as defined in the Receivership Order);

[1] All capitalized terms not defined in this letter shall have the meaning set forth in the Receivership Order.

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(ii) EINs for each Borrower;

(iii) All bank account information for each account related to the Receivership Property;

(iv) All Income collected for the Receivership Property whether received prior to or after March 6, 2018, the effective date of the Receivership Order;

(v) Security deposits, operating budgets, invoices, service contracts, leases, rent rolls, documents, books, records, work papers, rent collection status/delinquency reports, current legal (eviction) correspondence/legal notices, income and expense statements, utility bills, utility account information, CAM reconciliations, executed and unexecuted service proposals, all environmental reports, municipal/governmental correspondence, inspection reports, violations, surveys, site plans, engineering reports and studies, title insurance commitments and policies, listing agreements, purchase agreements, letters of intent to purchase, active and inactive property and liability insurance, and property tax bills;

(vi) The data migration form for Rent Manager, which was forwarded by the Receiver to KDM Development.

Further, the Receiver has been informed that on Friday, March 2, 2018, after the Receivership Order was entered, Borrower directed the removal of the following items from the Mortgaged Property (collectively, the "Removed Property"):

(i) 2005 Ford F-250 truck, VIN No. 1FTNF21515EB08857;
(ii) 2015 Ford F-250 truck, VIN No. 1FTBF2B65FEB89874; and
(iii) The entire water billing system for the Mortgage Property, including but not limited to the computer, printer, all software and all related items.

Removal of any of the Receivership Property is a violation of the Receivership Order, which provides as follows:

1.5 Borrowers and their employees, officers, members or directors are prohibited from removing any material personal property belonging to the

Borrowers from the Receivership Property, or diverting any Income which is collateral for Plaintiff's loan.

...

14.7 The Borrowers, their employees, agents and representatives, and all those in active participation or concert with them who receive notice of this Order, and all those having claims against the Receivership Property who receive notice of this Order, are enjoined from and shall not:

...

d. **Interfere with Receiver.** Directly or indirectly intentionally, in bad faith, interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of and operation, management, marketing or sale of the Receivership Property.

...

f. **Impair the Preservation of the Receivership Property.** Intentionally, in bad faith do any act that will, or that will tend to impair, defeat, divert, prevent, or prejudice the preservation of the Receivership Property, including the Income, or the preservation of Plaintiff's interest in the Receivership Property and Income.

The Borrower's removal of such items after the entry of the Receivership Order was done in bad faith and significantly interferes with the Receiver's operation of the Receivership Property. The Removed Property must be returned to the Receiver no later than **5:00 p.m. EST on Monday, March 12, 2018**. The replacement of the water billing system alone is expected to cost the Receivership estate thousands of dollars.

Notwithstanding the Notice of Appeal filed on March 7, 2018, the Receivership Order remains effective and Borrower's compliance is required, absent a stay of execution.

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If Borrower fails to comply with any of the above requests, an Emergency Motion to Show Cause will be filed.

Very truly yours,

Jeanna M. Weaver, Esq.
Direct Dial: 614-629-3007
Email: jweaver@plunkettcooney.com

cc: Kimberly Scott (via email only)
Mark Kassab (via email only)
Sam Madorsky (via email only)
John Rutter, Esq. (via email only)

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M. Shapiro Real Estate Group Ohio LLC
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334

EXHIBIT E

March 8, 2017

Via Hand Delivery

Dear Valued Resident:

We would like to inform you of a recent change at Brook Park. On March 1, 2018, M. Shapiro Real Estate Group Ohio LLC ("Receiver") was appointed as the receiver for Brook Park by the Court of Commons Pleas for Cuyahoga County, Ohio pursuant to an Order Appointing Receiver (the "Order"). A full copy of the Order is available for your review upon request.

We are pleased to inform you that your home site is secure, **you do not have to vacate the premises as a result of the Order**, and the community will continue to operate as it previously has on a daily basis. Brook Park will now be managed by the Receiver, who has more than thirty-five (35) years of experience in the manufactured housing industry, and is looking forward to providing community management service to you on behalf of Brook Park.

Please continue to forward all rent payments and correspondence to the community office address set forth below; or you may continue to hand deliver your rent at the office. If you have any concerns regarding Brook Park, or for any other resident relation or operations questions, including, but not limited to, common area maintenance and/or emergencies, you should contact the Columbia Park office. All onsite staff, including the Property Manager, Ildi Gristanti, remain the same.

Rent payments should be made payable to:
And mailed or hand delivered to:

Columbia Park
7100 Columbia Road
Olmsted Township, OH 44138

Pursuant to the Order, all decisions relating to the management of Brook Park will be made by the Receiver and not by the owners of Brook Park or any agent previously authorized by the owners of Brook Park to manage the communities and collect the rents. **Furthermore, any rents paid to any person or office other than that noted above will not be credited to your account.**

Thank you in advance for your patience during this transition. We appreciate your business and assure you that we will do our best to provide you with the highest standard of service that you deserve.

Regards,

M. Shapiro Real Estate Group Ohio LLC

Kim Scott
Director – Manufactured Housing

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M. Shapiro Real Estate Group Ohio LLC
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334

March 8, 2017

Via Hand Delivery

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Thank you in advance for your patience during this transition. We appreciate your business and assure you that we will do our best to provide you with the highest standard of service that you deserve.

Regards,

M. Shapiro Real Estate Group Ohio LLC

Kim Scott
Director – Manufactured Housing

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EXHIBIT F

Columbia-Brook Park Management, LLC
1080 Pittsford-Victor Road, Suite 202
Pittsford, New York 14534
585-381-0570

March 9, 2017

Shirley Horsfall

16 Ash Drive

Olmsted Township, OH 44138

Dear Resident:

Please be advised that you should continue to pay your Columbia Park Water and Sewer bills as normal. Please send all water and sewer payments to the corporate office located at 1080 Pittsford Victor Rd, Suite 202, Pittsford, NY 14534.

Thank you for your attention in the matter.

Very truly yours,

Kenneth C. Burnham
Member
KCB/argls

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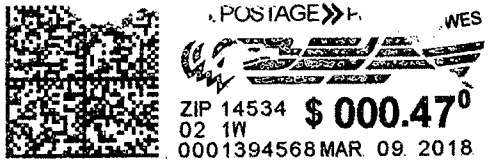
MANAGEMENT OFFICE
1080 Pittsford Victor Road, Suite 202
Pittsford, New York 14534



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Case No(s). 18-1294-WS-AEM

Summary: Motion JOINT MOTION OF RECEIVER M. SHAPIRO REAL ESTATE GROUP OHIO, LLC AND & U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF MERRILL LYNCH MORTGAGE TRUST 2007-C1, TO DISMISS EMERGENCY RATE CASE ACTION electronically filed by Mr. Donald L Mason on behalf of M. Shapiro Real Estate Group Ohio, LLC, Through Kimberly Scott, Court Appointed Receiver and US Bank NA National Associatoin, As Trustee