

Warren County, Iowa
Recorded: 8/24/2016 at 8:10:00.0 AM
BK: 2016 PG: 7192
Polly J. Glascock RECORDER
Number: 2016-7192
Fee Amount: \$37.00
Revenue Tax:

MORTGAGE

Preparer Information:

Martin J. Lee, Greenberg Traurig LLP, 77 West Wacker Drive, Suite 3100, Chicago, Illinois 60601;
Phone: (312) 456-1077

Return Document To:

Martin J. Lee, Greenberg Traurig LLP, 77 West Wacker Drive, Suite 3100, Chicago, Illinois 60601

Mortgagor/Borrower:

SUNSET DRIVE PROPERTIES, L.L.C., an Iowa limited liability company

Mortgagee:

ALLY BANK (Ally Capital in Hawaii, Mississippi, Montana and New Jersey)

Property Address: 2501 Sunset Dr., Norwalk, Iowa 50211, and as more specifically stated in Schedule A

Parcel #(s): 63171010040

Legal Description: See attached Schedule A

61997047

MORTGAGE

NOTICE: This Mortgage secures credit in the aggregate amount of \$8,213,000.00. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages, and liens. This Mortgage contains an after-acquired property clause.

A. This Mortgage is made by and between:

1. **SUNSET DRIVE PROPERTIES, L.L.C.**, an Iowa limited liability company, 2501 Sunset Dr., Norwalk, Iowa 50211 ("Borrower"); and
2. **ALLY BANK** (Ally Capital in Hawaii, Mississippi, Montana and New Jersey), located 15303 S. 94th Avenue, Orland Park, Cook County, Illinois 60462 ("Ally").

B. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower MORTGAGES, hypothecates, pledges, grants, conveys, bargains, sells, transfers, and WARRANTS to Ally the following (collectively, the "Mortgaged Property"):

1. All of Borrower's fee simple right, title, and interest in the property described in attached Schedule A, including, without limitation, any and all appurtenances thereto, and any and all buildings, structures, fixtures, and improvements thereon, whether now or later existing (collectively "Property");
2. Any and all existing and future leases, subleases, and other agreements affecting the use, enjoyment, or occupancy of the Property, including all extensions, renewals, and/or replacements thereof (collectively "Leases");
3. All rents, revenues, profits, and other benefits arising under Leases or relating to the Leases and/or Property including, but not limited to, all cash or securities deposited under any such leases to secure performance by the tenants of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the installments of rent coming due thereunder ("Rents");
4. All or any part of the oil and gas located in, on or under oil and gas properties, and all or any of the rents and profits from oil and gas properties, and the income from the sales of oil and gas produced or to be produced from oil and gas properties;
5. All of Borrower's rights under or relating to the Leases, including, without limitation, the rights to:
 - a. Claim, receive, collect, and pay all Rents payable or receivable under the Leases;
 - b. Apply such Rents to Borrower's Obligations.
6. Proceeds of the foregoing.

C. This Mortgage secures payment and performance of any and all present and future debts, advances, obligations, and duties that Borrower owes to Ally however arising under, and/or relating to, any and all loan and financing accommodations extended by Ally to Borrower (“Obligations”).

1. The Obligations include, without limitation, the real estate loan in the amount of \$8,213,000.00, plus interest (including any default interest and prepayment premium) and all of Ally’s costs and expenses incurred in connection with this loan and all other payments and performance obligations of Borrower to Ally (the “Loan”), evidenced by that certain Commercial Real Estate Loan and Security Agreement and Promissory Note, dated as of August 10, 2016 (“Loan Agreement”) hereby incorporated by reference into this Mortgage.
2. The Loan bears interest and is due and payable as set forth in the Loan Agreement.
3. Full and final payment of the Loan is due and payable on September 1, 2026.
4. Borrower and Ally expressly intend that this Mortgage secure any and all optional or obligatory future advances that Ally may make to Borrower from time to time, but any and all optional future advances are discretionary and are subject to such terms and conditions as Ally may require in its sole, absolute discretion.

D. Upon default under any Obligation:

1. To the extent permitted by law, Ally may completely or partially foreclose upon and sell the Property in accordance with the applicable private, nonjudicial foreclosure procedures prescribed by state law;
2. If state law prohibits private foreclosure sales, Ally may institute court proceedings for complete or partial foreclosure upon sale of the Property in accordance with state law.

E. This Mortgage remains in effect until Ally releases it.

1. Upon full and final payment and performance of all of Borrower’s Obligations, Ally will release this Mortgage.
2. Upon release, this Mortgage will be void.

F. This Mortgage is governed by the laws of the state where the Property is located.

G. State Specific Provisions

1. Borrower hereby agrees that, in the event of judicial foreclosure of this Mortgage, Ally may, at its sole option, elect: (i) pursuant to Iowa Code § 628.26, as now enacted or hereafter modified, amended or replaced, to reduce the period of redemption after sale and foreclosure to six months; or (ii) pursuant to Iowa Code § 628.27, as now enacted or hereafter modified, amended or replaced, to reduce the period of redemption after sale and foreclosure to 60 days; or (iii) pursuant to Iowa Code § 628.28, as now enacted or hereafter modified, amended or replaced, or any other Iowa Code Section, to reduce the period of redemption after sale and foreclosure to such time as may then be applicable and provided by law; or (iv) pursuant to Iowa Code § 654.20, as now enacted or hereafter modified, amended or replaced, to foreclose without redemption. Nothing in this Section shall be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

2. Borrower represents and warrants that:

- a. None of the Mortgaged Property constitutes (i) real property which is a single-family or two-family dwelling occupied or to be occupied by Borrower; (ii) agricultural products or property used for an agricultural purpose as defined in Iowa Code § 535.15; (iii) agricultural lands defined in Iowa Code § 91.1 or 175.2(2); or (iv) property used for agricultural purposes defined in Iowa Code § 570A.1(2).
 - b. The Obligations do not constitute a consumer credit transaction as defined in Iowa Code §537.1301.11; and the transactions contemplated by this Mortgage are for a business purpose as defined in Iowa Code § 535.2(2)(a)(5).
 - c. The liens and security interests granted hereby are not the type of lien referred to in Chapter 575 of the Iowa Code, as now enacted or hereafter modified, amended or replaced. Borrower, for itself and all persons claiming by through or under Borrower, agrees that it claims no lien or right to a lien of the type contemplated by Chapter 575 or any other chapter of the Code of Iowa, and further waives all notices and rights pursuant to said law with respect to the liens and security interests hereby granted, and represents that it is the sole party entitled to do so and agrees to hold harmless Ally from any loss, damage, and costs, including attorneys' fees, suffered by Ally arising as a result of any claim of the applicability of said law to the liens and security interests hereby granted.
3. In the event of foreclosure of this Mortgage, the Borrower hereby agrees that the court may, and requests the court to enter and record the judgment contained in the foreclosure decree without requiring that any existing Notes be first filed with the clerk of court for cancellation. The Borrower further agrees, because the obligations secured by this Mortgage are also secured by other security instruments and will be necessary to foreclosure of those security instruments, notwithstanding Iowa Rule of Civil Procedure 1.961, as presently enacted or as hereinafter amended or replaced, the clerk of court may, in the event of foreclosure of this Mortgage, enter and record the judgment contained in the foreclosure decree on the obligations secured by this Mortgage without requiring that any existing Notes be first filed with the clerk of court for cancellation.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF IOWA APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THE STATE OF IOWA AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.

[SIGNATURE PAGES TO FOLLOW]

SUNSET DRIVE PROPERTIES, L.L.C., an
Iowa limited liability company

Signature: _____
By (print): Gregory B. Young
Title: Managing Member
Date: August 10, 2016

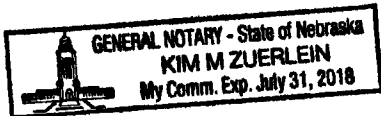
ALLY BANK

Signature: _____
By (print): **K. Horodnik**
Title: **Assistant Secretary**
Date: **8-11-16**

STATE OF ~~IOWA~~ ^{Nebraska})
COUNTY OF Douglas) SS.

I, Kim M Zuerlein, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Gregory B. Young, the Managing Member of Sunset Drive Properties, L.L.C., an Iowa limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that she signed and delivered the said instrument as her free and voluntary act.

GIVEN under my hand and Notarial Seal this 10 day of August, 2016.



Kim M Zuerlein
Notary Public

My Commission Expires:
7-31-2018

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, Kathryn Chamberger, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that OK Abrodnik, personally known to be to be the Assistant Secretary of Ally Bank (Ally Capital in Hawaii, Mississippi, Montana and New Jersey), and personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as such ASST Sec she/he signed and delivered the said instrument pursuant to authority of said company as her/his free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

WITNESS MY HAND and Notary seal this 11 day of August, 2016.

Kathryn C Lambigger
Notary Public



My commission expires:

10/18/17

SCHEDULE A

LEGAL DESCRIPTION

Lot 4, The Legacy Commercial Plat 1, an Official Plat, now included in and forming a part of Norwalk, Warren County, Iowa.