

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

ReadyCap Commercial LLC
Post Closing / Melissa Perez
1320 Greenway Drive, Suite 560
Irving, Texas 75038

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3/29/2019 11:54:00 AM \$34.00
Book - 10765 Pg - 1379-1389
RASHELLE HOBBS
Recorder, Salt Lake County, UT
BACKMAN TITLE SERVICES
BY: eCASH, DEPUTY - EF 11 P.

Space Above This Line For Recorder's Use

ASSIGNMENT OF LEASES AND RENTS

from

NWI ASPEN VILLAGE, LP
a Delaware limited partnership

(as Assignor)

to

READYCAP COMMERCIAL, LLC,
a Delaware limited liability company,
d/b/a Ready Capital Structured Finance
(as Assignee)

Location: 3043 W 3500 S
3054 W. Lehman Ave
West Valley, Utah 84119

Tax Parcel ID: 15-33-103-025
15-33-104-022

Property: Aspen Village Apartments

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (as amended, modified and in effect from time to time, this "Assignment") is made as of March 28, 2019, by NWI Aspen Village, LP, a Delaware limited partnership, having an address at c/o Next Wave Residential Partners II, LLC, 101 S. El Camino Real, Suite 202, San Clemente, California 92672 ("Assignor") in favor of READYCAP COMMERCIAL, LLC, a Delaware limited liability company, d/b/a Ready Capital Structured Finance, whose address is 1320 Greenway Drive, Suite 560, Irving, Texas 75038 (together with its successors and assigns, "Assignee").

RECITALS

A. Pursuant to that certain Loan Agreement dated as of the date hereof by and between Assignor and Assignee (as amended, modified and supplemented and in effect from time to time, the "Loan Agreement"), Assignee is making the Loan to Assignor which is evidenced by the Note and secured by, among other things, the Security Instrument on Assignor's interest in the real property described on Exhibit A attached hereto and the Property.

B. Assignor intends by the execution and delivery of this Assignment to further secure the payment and performance of the Loan Obligations (as such term is defined in the Security Instrument).

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Certain Defined Terms. For all purposes of this Assignment, all capitalized terms shall have the meaning ascribed thereto in the Loan Agreement unless defined herein, and:

"Leases" means all leases and other agreements or arrangements affecting the use or occupancy of all or any portion of the Property now in effect or hereafter entered into (including, without limitation, all lettings, subleases, licenses, concessions, tenancies and other occupancy agreements covering or encumbering all or any portion of the Property), together with any guarantees, supplements, amendments, modifications, extensions and renewals of the same, and all additional remainders, reversions, and other rights and estates appurtenant thereto.

"Rents" means, with respect to the Property, all rents (whether denoted as advance rent, minimum rent, percentage rent, additional rent or otherwise), receipts, issues, income, royalties, profits, revenues, proceeds, bonuses, deposits (whether denoted as security deposits or otherwise), lease termination fees or payments, rejection damages, buy-out fees and any other fees made or to be made in lieu of rent, any award made hereafter to Assignor in any court proceeding involving any tenant, lessee, licensee or concessionaire under any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court, all rights, title and interest in and claims under any and all lease guaranties, letters of credit and any other credit support given by any guarantor in connection with any of the Leases or leasing commissions, and all other payments, rights and benefits of whatever nature from time to time due under any of the Leases.

2. Assignment of Leases and Rents. Assignor hereby absolutely and unconditionally assigns to Assignee all of Assignor's right, title and interest in all current and future Leases and Rents, it being intended that this Assignment constitute a present, absolute assignment and not an assignment for additional security only. This Section 2 presently gives Assignee the right to collect Rents and to apply Rents in partial payment of the Loan Obligations in accordance with the Loan Agreement. Assignor intends that the Rents and Leases be absolutely assigned and no longer be, during the term of this Assignment, property of Assignor or Assignor's estate, as defined by 11 U.S.C. §541. If any law exists requiring Assignee to take actual possession of the Property (or some action equivalent to taking possession of the Property, such as securing the appointment of a receiver) for Assignee to "perfect" or "activate" the rights and remedies of Assignee as provided in this Section 2, Assignor waives the benefit of such law. Such assignment to Assignee shall not be construed to bind Assignee to perform of any covenants, conditions or provisions contained in any Lease or otherwise impose any obligation upon Assignee, and notwithstanding this Assignment, Assignor shall remain liable for any obligations undertaken by Assignor pursuant to any Lease. Subject to the terms of this Section 2 and the Loan Agreement, Assignee grants to Assignor a license, revocable as hereinafter provided, to operate, lease and manage the Property and to collect, receive, enjoy and use the Rents. If an Event of Default occurs, the license granted to Assignor, as aforesaid, shall be automatically and immediately, without any further action on the part of Assignee, revoked by Assignee for so long as such Event of Default exists, and Assignee shall immediately be entitled to possession of all Rents collected thereafter (including Rents past due and unpaid) whether or not Assignee enters upon or takes control of the Property. Any Rents collected by Assignor from and after the date on which an Event of Default occurred and is continuing shall be held by Assignor in trust for Assignee. Assignor hereby grants and assigns to Assignee the right, at Assignee's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court appointed receiver to collect Rents with or without taking the actual possession of the Property or any equivalent action. Assignee may apply any Rents collected after the license granted herein is revoked in Assignee's sole and absolute discretion to pay the Loan Obligations in such order and in such manner as Assignee shall elect in Assignee's discretion.

3. Remedies. At any time after the occurrence and during the continuance of an Event of Default, Assignee, without waiving such Event of Default, at its option, upon notice and without regard to the adequacy of the security for the Loan Obligations, either in person or by agent, upon bringing any action or proceeding, by a receiver appointed by a court, or otherwise, may take possession of the Property and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem proper. Assignee shall immediately be entitled to possession of all security deposits held with respect to the Property, whether or not Assignee enters upon or takes control of the Property and regardless of where any such security deposits are deposited or located; provided that such security deposits shall be held by Assignee in accordance with the Leases. At any time after the occurrence and during the continuance of an Event of Default, Assignee, either with or without taking possession of the Property in its own name, may demand, sue for or otherwise collect and receive all Rents, including Rents past due and unpaid, and apply such Rents to pay any one or more of the following in such order and amounts as Assignee may elect in its sole and absolute discretion: (a) all costs and expenses incurred, and advances made, by Assignee to enforce this Assignment or the other Loan Documents, protect the Lien and security afforded thereby, or preserve the Property, including, without limitation, all expenses of managing the Property, including, without limitation, the

salaries, fees and wages of any managing agent and such other employees as Assignee may deem necessary and all expenses of operating and maintaining the Property, including, without limitation, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for insurance and the cost of alterations, renovations, repairs or replacements, and all costs and expenses incident to taking and retaining possession of the Property or enforcing any of Assignee's rights and remedies hereunder; and (b) the Loan Obligations, together with all costs, expenses and attorneys' fees in connection with any of the foregoing. Neither Assignee's exercise of the option granted to Assignee in this Section 3 nor the collection or application of Rents as herein provided shall be considered a waiver of any Event of Default. Assignor agrees that the exercise by Assignee of one or more of its rights and remedies under this Assignment shall in no way be deemed or construed to make Assignee a mortgagee-in-possession.

Upon or at any time after the occurrence and during the continuance of an Event of Default, Assignee shall have the right to proceed in its own name or in the name of Assignor in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under Title 11 of the United State Code, as amended from time to time, and all rules and regulations promulgated thereunder (the "Bankruptcy Code"). If there shall be filed by or against Assignor a petition under the Bankruptcy Code, and Assignor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Assignor shall give Assignee not less than ten (10) days' prior notice of the date on which Assignor shall apply to the bankruptcy court for authority to reject such Lease. Assignee shall have the right, but not the obligation, to serve upon Assignor within such ten (10) day period a notice stating that (i) Assignee demands that Assignor assume and assign the Lease to Assignee pursuant to Section 365 of the Bankruptcy Code, and (ii) Assignee covenants to cure or provide adequate assurance of future performance under the Lease. If Assignee serves upon Assignor the notice described in the preceding sentence, Assignor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after Assignee's notice shall have been given, subject to the performance by Assignee of the covenant provided for in clause (ii) of the preceding sentence.

4. No Lender Liability. This Assignment shall not be construed to bind Assignee to the performance of any of the covenants, conditions or provisions contained in any Lease or lease guaranty, or otherwise impose any obligation upon Assignee. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Property after an Event of Default or from any other act or omission of Assignee in managing the Property after an Event of Default, unless such loss is caused by the willful misconduct, gross negligence or bad faith of Assignee. Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any lease guaranties or under or by reason of this Assignment, and Assignor shall, and hereby agrees to, indemnify Indemnified Parties (as hereinafter defined) for, and to hold Indemnified Parties harmless from (a) any and all liability, loss or damage which may or might be incurred under the Leases, any lease guaranties or under or by reason of this Assignment, and (b) from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against any Indemnified Parties by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any lease guaranties, unless caused by the

willful misconduct, gross negligence or bad faith of an Indemnified Party. Should Indemnified Parties incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured by this Assignment and by the Security Instrument and the other Loan Documents, and Assignor shall reimburse such Indemnified Parties therefor immediately upon demand, and upon the failure of Assignor to do so Assignee may, at its option, declare all sums secured by this Assignment and by the Security Instrument and the other Loan Documents immediately due and payable. Unless Assignee (or its agent or affiliate) has taken actual possession of the Property, this Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Assignee, nor for the carrying out of any of the terms and conditions of the Leases or any lease guaranties; nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property including, without limitation, the presence of any Hazardous Substances, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. For purposes of this Section 4, the term "Indemnified Parties" means Assignee and any Person who is or will have been involved in the origination of the Loan, any Person who is or will have been involved in the servicing of the Loan secured hereby, any Person in whose name the encumbrance created by this Assignment is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the Loan (including, but not limited to, investors or prospective investors in securities related to the Loan, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other Person who holds or acquires or will have held a participation or other full or partial interest in the Loan, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Assignee's assets and business). The provisions of this Section 4 shall survive any payment or prepayment of the Loan and any foreclosure or satisfaction of the Security Instrument.

5. Notices. All notices, demands, consents, requests or other communications that are permitted or required to be given by Assignor or Assignee to the other shall be in writing and given in the manner specified in Section 11.6 of the Loan Agreement.

6. Binding Obligations, Successors and Assigns. The provisions and covenants of this Assignment shall run with the Property, shall be binding upon Assignor, its successors and assigns, and shall inure to the benefit of Assignee, its successors and assigns. Assignee shall have the right to assign, sell, pledge, participate, delegate, or transfer, as applicable, to one or more Persons, all or any portion of its rights and obligations under this Assignment in connection with any assignment of the Loan and the Loan Documents to any Person. Any assignee or transferee of Assignee shall be entitled to all the benefits afforded to Assignee under this Assignment. Assignor shall not have the right to assign, delegate or transfer its rights or obligations under this Assignment without the prior written consent of Assignee, as provided in the Loan Agreement, and any attempted assignment, delegation or transfer without such consent shall be null and void.

7. Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties hereto and are not a part of this Assignment.

8. Severability. If any term or provision of this Assignment or the application thereof to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Assignment, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Assignment shall be valid and enforceable to the maximum extent permitted by law.

9. Assignor's Obligations Absolute. Except as set forth to the contrary herein or in the other Loan Documents, all sums payable by Assignor hereunder shall be paid without notice, demand, counterclaim (other than mandatory counterclaims), setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction. Except as expressly provided herein, Assignor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Assignor.

10. Amendments. This Assignment cannot be modified, changed or discharged except by an agreement in writing, duly acknowledged in form for recording, executed by Assignor and Assignee.

11. Exhibits. The information set forth on the cover, heading and recitals hereof, and the Exhibit attached hereto, are hereby incorporated herein as a part of this Assignment with the same effect as if set forth in the body hereof.

12. Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Assignor under this Assignment.

13. Termination. When the Security Instrument has been fully reconveyed or released by Assignee, that reconveyance or release shall operate as a release and discharge of this Assignment and as a reassignment of all future Leases and all Rents with respect to the Property to the Person or Persons legally entitled thereto, unless such reconveyance or release expressly provides to the contrary.

14. Applicable Law; Submission to Jurisdiction.

(a) This Assignment shall be governed by and construed in accordance with the laws of the State in which the Property is located (without giving effect to rules regarding conflict of laws).

(b) Assignor hereby consents and submits to the exclusive jurisdiction and venue of any state or federal court sitting in the county and state where the Property is located with respect to any legal action or proceeding arising with respect to this Assignment and waives all objections which it may have to such jurisdiction and venue.

15. WAIVER OF JURY TRIAL. ASSIGNOR AND ASSIGNEE HEREBY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM,

COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS ASSIGNMENT OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF ASSIGNOR AND/OR ASSIGNEE WITH RESPECT TO ANY LOAN DOCUMENT OR THE EXERCISE OF ANY PARTY'S RIGHTS AND REMEDIES UNDER THIS ASSIGNMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH OF ASSIGNOR AND ASSIGNEE AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS ASSIGNMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF ASSIGNOR AND ASSIGNEE IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT TO ASSIGNEE TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN ASSIGNOR AND/OR ASSIGNEE SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

16. Exculpation. This Assignment is and shall be subject to the exculpation provisions of Section 16 of the Note.

17. Further Assurances. Assignor agrees that to further evidence and reflect the assignment granted herein, Assignor shall execute, acknowledge and deliver to Assignee such additional documents, instruments and agreements, in form and substance satisfactory to Assignee, as may hereafter be reasonably requested by Assignee, and Assignor shall record such thereof, all at Assignor's expense.

[Signature on the following page]

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 3/25/2019 before me, Brad Meindertma, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared David Sloan
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Assignment of Leases & Rents

Document Date: 3/25/19 Number of Pages: _____

Signer(s) Other Than Named Above: n/a

Capacity(ies) Claimed by Signer(s)

Signer's Name: David Sloan

- Corporate Officer - Title(s): Manager
- Partner - Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer is Representing: Next Wave Residential Partners II, LLC

Signer's Name: _____

- Corporate Officer - Title(s): _____
- Partner - Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer is Representing: _____

EXHIBIT A

Description of the Property

PARCEL 1:

Beginning at a point on the South line of 3500 South Street, said point being East along the Section line 634.50 feet and South 33.00 feet from the Northwest corner of Section 33, Township 1 South, Range 1 West, Salt Lake Base and Meridian, and running thence South 76.00 feet; thence West 13.50 feet; thence South 19.00 feet; thence West 27.00 feet; thence South 429.65 feet; thence South 89°17'20" East 70.11 feet; thence South 28°10'30" East 36.53 feet; thence South 2°46'16" West 69.36 feet to the North line of Lot 14, Lehman Subdivision; thence East 166 feet; thence North 627.00 feet; thence West 209.50 feet to the point of beginning.

Less and excepting any portion of subject land lying within the bounds of 3500 South Street which lies North of the Southerly line conveyed in Warranty Deed recorded January 5, 2010, as Entry No. 10873495, in Book 9794, at Page 6658, being described as follows:

A parcel of land in fee, being part of an entire tract of property situate in the Northwest Quarter of the Northwest Quarter of Section 33, Township 1 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the Northwest corner of said entire tract in the Southerly right of way line of the existing highway State Route 171 which corner is 634.50 feet East and 53.00 feet South from the Northwest corner of said Section 33 said corner is also approximately 35.68 feet perpendicularly distant Southerly from the control line of said project opposite engineer station 705+27.02; and running thence East 209.50 feet along said Southerly right of way line to the Northeast corner of said entire tract; thence South 9.96 feet along the Easterly boundary line of said entire tract to a point 45.63 feet perpendicularly distant Southerly from said control line; thence West 209.50 feet along a line parallel with and 62.96 feet perpendicularly distant Southerly from the Northerly section line of said section to a point in the Westerly boundary line of said entire tract which point is 45.64 feet perpendicularly distant Southerly from said control line; thence North 9.96 feet along said Westerly boundary line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel ID No.: 15-33-103-025

PARCEL 2:

All of Lot 13, Lehman Subdivision, according to the official plat thereof, as recorded in the office of the County Recorder of said County.

Less and excepting that portion conveyed to West Valley City in Warranty Deed recorded May 26, 2017, as Entry No. 12543310, in Book 10561, at Page 4363, being described as follows:

A parcel of land located in the Northwest Quarter of Section 33, Township 1 South, Range 1 West, Salt Lake Meridian, being more particularly described as follows:

Beginning at the Southeast corner of Lot 13 of Lehman Subdivision, according to the official plat thereof as recorded in Book S at Page 59 in the office of the Salt Lake County Recorder; and running thence South 89°53'20" West 80.00 feet to the Southwest corner of said Lot 13; thence North 00°00'20" East 10.00 feet along the Westerly boundary of said lot; thence North 89°53'20" East 80.00 feet to the Easterly boundary of said lot; thence South 00°00'20" West 10.00 feet to the point of beginning.

Parcel ID No.: 15-33-104-022

As Surveyed Description:

A parcel of land situate in the Northwest Quarter of Section 33, Township 1 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point on the Southerly Right of Way of 3500 South Street, said point being North 89°53'20" East 634.62 feet and South 62.96 feet from the North Quarter Corner of Section 33, Township 1 South, Range 1 West, Salt Lake Base and Meridian, and running; thence North 89°53'20" East 209.30 feet along said Southerly Right of Way; thence South 00°00'20" West 597.04 feet; thence South 89°53'20" West 40.93 feet; thence South 00°00'20" West 110.00 feet; thence South 89°53'20" West 80.00 feet; thence North 00°00'20" East 110.00 feet; thence South 89°53'20" West 44.93 feet; thence North 02°46'16" East 69.20 feet; thence North 28°10'30" West 36.53 feet; thence North 89°17'20" West 70.11 feet; thence North 429.65 feet; thence North 89°53'20" East 27.25 feet; thence North 00°06'40" West 19.00 feet; thence North 89°53'20" East 13.50 feet; thence North 00°06'40" West 46.04 feet to the point of beginning.

Said property is also known by the street address of:

3043 W 3500 S
3054 W. Lehman Ave
West Valley, UT 84119

EXHIBIT A

Assignment of Leases and Rents
Loan Number 201916913
#65918007_v3

BK 10765 PG 1389