

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



590463279WAV0019

Westchester County Recording & Endorsement Page

Submitter Information

Name:	Sutton Alliance	Phone:	516 837 6204
Address 1:	515 Rockaway Avenue	Fax:	516 837 6504
Address 2:		Email:	Recordings@suttonalliance.com
City/State/Zip:	Valley Stream NY 11581	Reference for Submitter:	SL-002643

Document Details

Control Number:	590463279	Document Type:	Waiver (WAV)
Package ID:	2019021500148001001	Document Page Count:	10
		Total Page Count:	13

Parties

1st PARTY		<input checked="" type="checkbox"/> Additional Parties on Continuation page	
1:	COMMON COUNCIL OF THE CITY OF WHITE PLAINS - Other	1:	2nd PARTY
2:	CHAUNCEY WHITE PLAINS LLC - Other	2:	

Property

Street Address:	106 WESTCHESTER AVE	Tax Designation:	126.61-3-11
City/Town:	WHITE PLAINS	Village:	

Cross-References

1:	2:	3:	4:	<input type="checkbox"/> Additional Cross-Refs on Continuation page
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Supporting Documents

Recording Fees

Statutory Recording Fee:	\$40.00
Page Fee:	\$55.00
Cross-Reference Fee:	\$0.00
Mortgage Affidavit Filing Fee:	\$0.00
RP-5217 Filing Fee:	\$0.00
TP-584 Filing Fee:	\$0.00
Total Recording Fees Paid:	\$95.00

Transfer Taxes

Consideration:	\$0.00
Transfer Tax:	\$0.00
Mansion Tax:	\$0.00
Transfer Tax Number:	

Mortgage Taxes

Document Date:	
Mortgage Amount:	
Basic:	\$0.00
Westchester:	\$0.00
Additional:	\$0.00
MTA:	\$0.00
Special:	\$0.00
Yonkers:	\$0.00
Total Mortgage Tax:	\$0.00

Dwelling Type:	Exempt: <input type="checkbox"/>
Serial #:	

RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK



Recorded: 02/22/2019 at 10:22 AM
 Control Number: **590463279**
 Witness my hand and official seal

Timothy C. Idoni
Westchester County Clerk

Record and Return To

Pick-up at County Clerk's office

Sutton Alliance LLC
515 Rockaway Avenue

Valley Stream, NY 11581
Attn: Recording Dept

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1st PARTY Addendum

2nd PARTY Addendum

SABER WHITE PLAINS LLC	Other
SCHOOL DISTRICT OF THE CITY OF WHITE PLAINS	Other
70 WESTCHESTER LLC	Other
WHITE PLAINS CITY OF COMMON COUNCIL	Other
WHITE PLAINS CITY OF SCHOOL DISTRICT	Other

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Properties Addendum

92-98 WESTCHESTER AVE 10601	WHITE PLAINS	126.61-3-12
80 WESTCHESTER AVE 10601	WHITE PLAINS	126.61-3-13
84-88 WESTCHESTER AVE 10601	WHITE PLAINS	126.61-3-14
50 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-26
58-60 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-27
62 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-28
50-62 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-29
80 WESTCHESTER AVE 10601	WHITE PLAINS	126.61-3-13
84-88 WESTCHESTER AVE 10601	WHITE PLAINS	126.61-3-14
92-98 WESTCHESTER AVE 10601	WHITE PLAINS	126.61-3-12
7 & 11 AMHERST PL 10601	WHITE PLAINS	126.61-3-1
30-36 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-23
38-40 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-24
42-44 FRANKLIN AVE 10601	WHITE PLAINS	126.61-3-25

Termination and Release of Restrictive Covenant

WHEREAS, on April 2, 2018, the Common Council of the City of White Plains (the “City”) granted site plan approval (the “Approval”) for redevelopment of the real property known and designated on the City tax assessment map as Section 126.61, Block 3, Lots 11-14, and 26-29 (the “Development Site”) as a mixed-use residential/commercial facility consisting of approximately 25,000 square feet of retail and restaurant space, 276 dwelling units, and 745 parking spaces, including 275 spaces exclusively for City municipal use; and

WHEREAS, the City, having an address of 255 Main Street, White Plains, New York 10601, is the owner of the portion of the Development Site comprised of the real property known as 50-62 Franklin Avenue, and known and designated on the City tax assessment map as Section 126.61, Block 3, Lots 26-29 (the “City Property”); and

WHEREAS, Chauncey White Plains, LLC (“Chauncey”), having an address at c/o Saber Real Estate Advisors, 80 Business Park Drive, Suite 306, Armonk, New York 10504, is the owner of the portion of the Development Site comprised of the real property known as 80 Westchester Avenue, White Plains, New York 10601, and known and designated on the City tax assessment map as Section 126.61, Block 3, Lots 13 and 14 (the “Chauncey Property”); and

WHEREAS, Saber White Plains, LLC (“Saber”), having an address at 80 Business Park Drive, Suite 306, Armonk, New York 10504, is the owner of the portion of the Development Site comprised of the real property known as 90-96 Westchester Avenue, White Plains, New York 10601, and known and designated on the City tax assessment map as Section 126.61, Block 3, Lot 12 (the “Saber Property”); and

WHEREAS, the School District of the City of White Plains, New York (the “District”), having an address of 5 Homeside Lane, White Plains, New York 10605, is the owner of real property in the City known and designated on the City tax assessment map as Section 126.61, Block 3, Lot 1 (the “School District Property”), which adjoins the Development Site; and

WHEREAS, 70 Westchester LLC (“70 Westchester”), having an address of 70 Westchester Avenue, White Plains, New York 10601, is the owner of real property in the City known and designated on the City tax assessment map as Section 126.61, Block 3, Lot 23, 24 and 25 (the “70 Westchester Property”), which adjoins the Development Site; and

WHEREAS, by virtue of deeds dated in the nineteenth century and recorded in the Westchester County Clerk’s office in but not limited to the following Libers and Pages:

Liber 1289 Cp. 122; Liber 1290 Cp. 385; Liber 1262 Cp. 438; Liber 1370 Cp. 36;
 Liber 1205 Cp. 4; Liber 1222 Cp. 398; Liber 1258 Cp. 336; Liber 1289 Cp. 122;
 Liber 1622 Cp. 237; Liber 1622 Cp. 239; Liber 1622 Cp. 241; Liber 1622 Cp. 243;
 Liber 1622 Cp. 246; Liber 1622 Cp. 248;

there may exist a restriction that “no building be erected... nearer than 25 feet from the south line or side of” Franklin Avenue (f/k/a Oakley Avenue) and that no nuisance be created on the properties referred to in such deeds (the “Setback”); and

WHEREAS, pursuant to the Approval, certain structures on the Development Site will be located nearer than 25 feet from the south side of Franklin Avenue (f/k/a Oakley Avenue); and

WHEREAS, the City Property, the School District Property, the Chauncey Property, the Saber Property and the 70 Westchester Property may all be subject to the Setback and each party hereto may have the right to enforce such Setback against the property of the others; and

WHEREAS the parties hereto recognize and acknowledge that there has been a substantial change in the neighborhood since the Setback was imposed, and that the Setback may also affect additional properties owned by others, and that some or all of such properties have structures erected thereon which violate the Setback;

NOW THEREFORE, in consideration of \$10, and other good and valuable consideration, each to the other paid, receipt of which is acknowledged, and in consideration of the mutual covenants herein contained, the City, the District, Chauncey, Saber and 70 Westchester agree that:

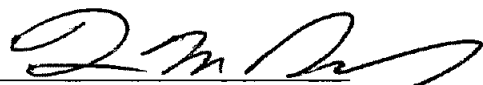
1. The Setback no longer serves a meaningful purpose.
2. The City hereby relinquishes and releases the School District Property, the Chauncey Property, the Saber Property and the 70 Westchester Property from any rights that it may have with respect to the Setback, and agrees that the Setback is with respect to the School District Property, the Chauncey Property, the Saber Property and the 70 Westchester Property hereby terminated and extinguished and of no further force and effect.
3. Chauncey hereby relinquishes and releases the City Property, the School District Property, the Saber Property and the 70 Westchester Property from any rights that it may have with respect to the Setback, and agrees that the Setback is with respect to the City Property, the School District Property, the Saber Property and the 70 Westchester Property hereby terminated and extinguished and of no further force and effect.
4. The District hereby relinquishes and releases the City Property, the Chauncey Property, the Saber Property and the 70 Westchester Property from any rights that it may have with respect to the Setback, and agrees that the Setback is with respect to the City Property, the Chauncey Property, the Saber Property and the 70 Westchester Property hereby terminated and extinguished and of no further force and effect.
5. Saber hereby relinquishes and releases the City Property, the School District Property, the Chauncey Property and the 70 Westchester Property from any rights that it may have with respect to the Setback, and agrees that the Setback is with respect to the City Property, the School District Property, the Chauncey Property and the 70 Westchester Property hereby terminated and extinguished and of no further force and effect.
6. 70 Westchester hereby relinquishes and releases the City Property, the Chauncey Property, the Saber Property and the School District Property from any rights that it may have with respect to the Setback, and agrees that the Setback is with respect to the City Property, the Chauncey Property, the Saber Property and the School District Property hereby terminated and extinguished and of no further force and effect.
7. Chauncey and Saber agree that neither they nor any successor or assign of either or both shall hereafter obtain a release of the Setback from any other party potentially entitled to enforce it against the Chauncey Property, Saber Property and 70 Westchester Property unless Chauncey or Saber also obtains a corresponding release of the Setback against the 70 Westchester Property on the same terms and conditions.
8. This Termination and Release shall be recorded against the City Property, the Chauncey Property, the Saber Property, the School District Property, and the 70 Westchester Property and shall run with the land and be binding upon the heirs, successors, and assigns of each of the parties hereto.

9. This Termination and Release of Restrictive Covenant may be executed by the parties in one or more counterparts, each of which, when so executed, shall be an original but all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF this Termination and Release of Restrictive Covenant has been executed by each of the parties as of the 1st day of February, 2019.

[Nothing further on this page; signatures and acknowledgements follow.]

CITY OF WHITE PLAINS

By: 
Name: THOMAS ROACH
Title: Mayor

APPROVED AS TO FORM

DATED 10/10/18
.....
ST. AGES Corporation Counsel

ACKNOWLEDGMENT

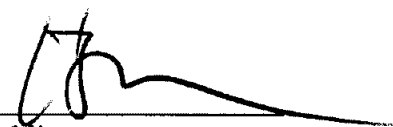
State of New York

}SS:

County of Westchester


On the 10th day of October in the year 2018, before me, the undersigned, personally appeared THOMAS ROACH, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

LESLIE BRUCE MARON
Notary Public, State of New York
No. 02MA4667211
Qualified in Westchester County
Commission Expires September 30, 2022



Notary Public

CHAUNCEY WHITE PLAINS, LLC

By: 
Name: Corey B. Rabin
Title: Managing Member

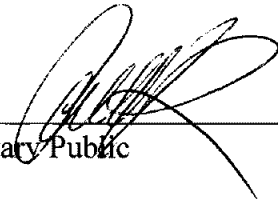
ACKNOWLEDGMENT

State of New York

}SS:

County of Westchester

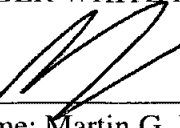
On the 16th day of January in the year 2019, before me, the undersigned, personally appeared Corey B. Rabin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

AMY KRUSE
Notary Public, State of New York
No. 01-KR6 048360
Qualified in Westchester County
Commission Expires 9/25/22

SABER WHITE PLAINS, LLC

By: 
Name: Martin G. Berger
Title: Managing Member

ACKNOWLEDGMENT

State of New York

}SS:

County of Westchester

On the 16 day of January in the year 2019, before me, the undersigned, personally appeared Martin G. Berger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

JEANETTE TRIVIGNO
Notary Public, State of New York
No. 01TR6001701
Qualified in Dutchess County
Commission Expires January 20, 2022

SCHOOL DISTRICT OF THE CITY OF WHITE PLAINS

By: Rosemarie Eller
Name: ROSEMARIE ELLER
Title: BOARD OF EDUCATION PRESIDENT

ACKNOWLEDGMENT

State of New York

}SS:

County of Westchester

On the 14th day of January in the year 2019, before me, the undersigned, personally appeared Rosemarie Eller, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Michele Schoenfeld
Notary Public

MICHELE SCHOENFELD
NOTARY PUBLIC, State of New York
No. 4770865
Qualified in Westchester County
Term Expires 8/31/22

70 WESTCHESTER LLC

By: [Signature]
Name: Agostino A. DiFeo
Title: Member

ACKNOWLEDGMENT

State of New York

}SS:

County of Westchester

On the 1 day of February in the year 2019, before me, the undersigned, personally appeared Agostino A. DiFeo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public

JILL HAYWARD
Notary Public, State of New York
No. 01HA6040287
Qualified in Westchester County
Term Expires 4-18-22

CERTIFICATE OF AUTHORITY

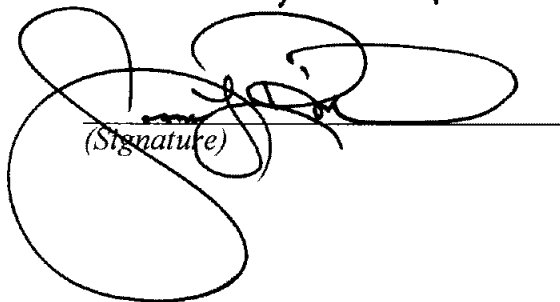
I, JOSEPH L. PICCA, Ed.D., certify that:

1. I am the SUPERINTENDENT OF SCHOOLS of the School District of the City of White Plains, a New York State education corporation (the "District");

2. ROSEMARIE ELLER, the person who signed this Termination and Release of Restrictive Covenant on behalf of the District was, at the time of execution, BOARD PRESIDENT of the District; and

3. That this Termination and Release of Restrictive Covenant was duly executed for and on behalf of the District by authority of BOARD OF EDUCATION, and that such authority is in full force and effect at the date hereof.

Dated: JANUARY 14, 2019


(Signature)

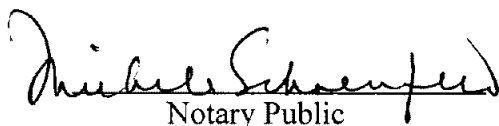
ACKNOWLEDGMENT

State of New York

}SS:

County of Westchester

On the 14th day of January in the year 2019, before me, the undersigned, personally appeared Joseph L. Picca, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

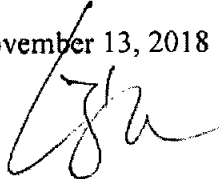
MICHELE SCHOENFELD
NOTARY PUBLIC, State of New York
No. 4770865
Qualified in Westchester County,
Term Expires 6/31/22

CERTIFICATE OF AUTHORITY

I, Leslie B. Maron, Esq., certify that:

1. I am the Senior Assistant Corporation Counsel of the City of White Plains, a New York State municipal corporation (the "City");
2. Thomas Roach, the person who signed a Termination and Release of Restrictive Covenant on behalf of the City relating to City property with an address of 50-62 Franklin Avenue, White Plains, New York 10601 (Section 126.61, Block 3, Lots 26, 27, 28 & 29), was, at the time of execution and still is as of this date, the Mayor of the City; and
3. That the Termination and Release of Restrictive Covenant was duly executed for and on behalf of the City pursuant to Section 3.14 of a certain Contract of Sale authorized by an Ordinance adopted by the Common Council of the City on April 2, 2018, and that such authority is in full force and effect at the date hereof.

Dated: November 13, 2018



LESLIE B. MARON, ESQ.

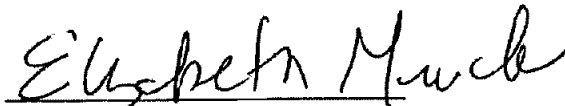
ACKNOWLEDGMENT

State of New York

}SS:

County of Westchester

On the 13th day of NOVEMBER in the year 2018, before me, the undersigned, personally appeared LESLIE B. MARON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

ELIZABETH C. MIRISOLA
Notary Public, State of New York
No. 02MI6313534
Qualified in Westchester County
Commission Expires October 20, 2019