

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiff,

-vs.-

KRCM ASTORIA PORTFOLIO CORPORATION,
RAJMATTIE PERSAUD, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, NEW
YORK CITY DEPARTMENT OF HOUSING
PRESERVATION & DEVELOPMENT,
APPROVED OIL CO. OF BROOKLYN, INC., and
JOHN DOE #1 THROUGH JOHN DOE # 119
inclusive, the names of the last 119 defendants being
fictitious, the true names of said defendants being
unknown to plaintiff, it being intended to designate
any occupants or tenants of the mortgaged premises
who are in default in the payment of rent for which a
proceeding is now pending by the mortgagor and/or
other persons or parties having or claiming an interest
in or lien upon the mortgaged premises subordinate
to that of the mortgagee, if the aforesaid individual
defendants are living, and if any or all of said
individual defendants be dead, their heirs at law, next
of kin, distributees, executors, administrators,
trustees, committees, devisees, legatees and the
assignees, lienors, creditors, successors in interest of
them, and generally all persons having or claiming
under, by, through or against the said defendants
named as a class, any right, title or interest in or lien
upon the premises described in the complaint herein,

Defendants.

No. _____

COMPLAINT

Plaintiff Federal National Mortgage Association (“Plaintiff” or “Fannie Mae”), by and
through its undersigned counsel, Akin Gump Strauss Hauer & Feld LLP, for its complaint against

Defendants KRCM Astoria Portfolio Corporation, Rajmattie Persaud, the City of New York Environmental Control Board, the New York City Department of Housing Preservation & Development, Approved Oil. Co. of Brooklyn, Inc., and John Doe #1 through John Doe #119 (the “Complaint”) alleges as follows:

NATURE OF THE ACTION

1. This is a mortgage foreclosure action on three multi-family properties located at 23-05 30th Avenue, Astoria, NY 11102; 23-15 30th Avenue, Astoria, NY 11102; and 21-80 38th Street, Astoria, NY 11105 (collectively, the “Property”). Plaintiff’s commercial mortgage on the Property secures a loan in the principal amount of \$34,700,000.00 which has been in default since May 1, 2024. With this action, Plaintiff seeks foreclosure of the Property as its lawful remedy under the governing loan documents, as well as a money judgment against KRCM Astoria Portfolio Corporation and Rajmattie Persaud and foreclosure of the junior liens recorded against the Property.

PARTIES

2. Plaintiff is a federally chartered corporation organized and existing under the laws of the United States, 12 U.S.C. §1716 *et seq.*, with its principal place of business in Washington, DC, with offices located at Midtown Center, 1100 15th Street NW, Washington, DC 20005.

3. Plaintiff is the current owner and holder of the Loan Documents (as such term is defined herein). Fannie Mae is a government-sponsored enterprise and a federally chartered entity that Congress created to enhance the nation’s housing-finance market. Under its federal statutory charter, Fannie Mae has a public mission to provide liquidity, stability, and affordability to the U.S. housing market, including the market for quality, affordable rental housing. Fannie Mae is operating under the conservatorship of the Federal Housing Finance Agency (“FHFA”), which is

an independent agency of the United States created in 2008 to supervise certain Government Sponsored Enterprises including Fannie Mae. *See* 12 U.S.C. § 4511 *et seq.* Among other powers, Congress granted the Director of FHFA the authority to place Fannie Mae into conservatorship under certain, statutorily defined conditions, which the Director did in 2008. As Conservator, FHFA has broad statutory powers, including the powers to preserve and conserve Fannie Mae's assets and property, and to collect obligations due Fannie Mae. FHFA's ability to exercise its statutory powers and functions as Conservator is protected by federal law. *See, e.g.*, 12 U.S.C. § 4617(f).

4. Defendant KRCM Astoria Portfolio Corporation is a New York corporation located at 45 Jackson Street, Hempstead, NY 11550.

5. Defendant Rajmattie Persaud is a citizen of the state of New York and resides at 45 Jackson Street, Hempstead, NY 11550.

6. Defendant New York City Environmental Control Board ("ECB"), also known as the Office of Administrative Trials and Hearings, is a New York City agency with an office located at 144-06 94th Ave. Main Floor, Jamaica NY 11435.

7. Defendant New York City Department of Housing Preservation & Development ("HPD") is a New York City agency with an office located at 100 Gold St, New York, NY 10038.

8. Defendant Approved Oil Co. of Brooklyn, Inc. ("Approved Oil") is a corporation organized under the laws of New York with offices located at 6717 4th Ave., Brooklyn, NY 11220.

9. Defendants "John Doe #1 through John Doe #119" are unknown persons or entities joined as party defendants because they may be tenants and persons in possession of the Property or have some interest in and to the Property (including that of judgment creditors) inferior and

subordinate to that of Plaintiff or may be persons who hold or have collected the rents, issues and profits relating to or arising from the Property.

JURISDICTION AND VENUE

10. This Court has jurisdiction over the claims asserted in this action under 28 U.S.C. § 1332 because the matter in controversy exceeds \$75,000 in value, exclusive of interests and costs, and is between citizens of different states.

11. For purposes of diversity jurisdiction, Plaintiff is a citizen of Washington, DC. 12 U.S.C. § 1717(a)(2)(B).

12. For purposes of diversity jurisdiction, Defendant KRCM Astoria Portfolio Corporation is a citizen of New York because it is organized under the laws of New York and has a principal place of business in New York.

13. For purposes of diversity jurisdiction, Defendant Rajmattie Persaud is a citizen of New York based upon her domicile in New York.

14. For purposes of diversity jurisdiction, Defendant ECB is a New York City agency that is a citizen of New York.

15. For purposes of diversity jurisdiction, Defendant HPD is a New York City agency that is a citizen of New York.

16. For purposes of diversity jurisdiction, Defendant Approved Oil is a citizen of New York because it is organized under the laws of New York and has a principal place of business in New York.

17. This Court has personal jurisdiction over Defendants KRCM Astoria Portfolio Corporation and Rajmattie Persaud because, *inter alia*, they agreed to submit to personal

jurisdiction in New York State according to the terms of the Note, Loan Agreement, and Mortgage Agreement (defined *infra*).

18. This Court has personal jurisdiction over Defendants ECB, HPD, and Approved Oil because they are New York entities with principal places of business in New York State.

19. Venue is proper in this district pursuant to 28 U.S.C. § 1391, because the Property that is the subject of this action is located in the Eastern District of New York, in Queens County, New York.

20. Venue is also proper pursuant to 28 U.S.C. § 1391, because this dispute arises out of the terms of agreements signed by the parties that are governed by New York law and contain forum selection clauses designating this Court as a proper venue.

FACTUAL ALLEGATIONS

I. The Mortgage and the Loan Documents

21. On or about April 4, 2017, Defendant KRCM Astoria Portfolio Corporation (the “Borrower”) executed an Amended and Restated Multifamily Note (the “Note”) for the benefit of Greystone Servicing Corporation Inc. (“Greystone”), the original lender under the Note. Under the terms of the Note, the Borrower agreed to pay to the holder of the Note (the “Lender”) the sum of \$34,700,000.00 plus interest. A true and correct copy of the Note is annexed as **Exhibit A** and incorporated herein.

22. On or about April 4, 2017, the Borrower and Greystone entered into a Multifamily Loan and Security Agreement (the “Loan Agreement”). A true and correct copy of the Loan Agreement is annexed as **Exhibit B** and incorporated herein. Under Schedule 2 of the Loan Agreement, the Borrower was required to make monthly payments on the loan to the Lender on the first day of each month from June 1, 2017 through May 1, 2024 (the “Monthly Payments”).

The principal sum and all accrued but unpaid interest was due and payable on the maturity date of May 1, 2024 (the “Maturity Date”).

23. In order to secure the indebtedness under the Note, on or about April 4, 2017, the Borrower executed an Extension and Modification Agreement (the “Modification Agreement”) which consolidated eight pre-existing mortgages into a single consolidated mortgage. A true and correct copy of the Modification Agreement, with proof of recording in the New York City Department of Finance Office of the City Register on April 21, 2017, File No. 2017000154088, is annexed as **Exhibit C** and incorporated herein. Pursuant to the Modification Agreement, the Borrower and Greystone entered into a Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the “Mortgage Agreement”), which is included as Exhibit C to the Modification Agreement. Under the Mortgage Agreement, the Borrower mortgaged to Greystone the Property, including, among other things, the structures and buildings upon it, the leases on the Property, and the rents and income received on the Property (the “Mortgage”). To further effectuate the Mortgage and grant of security interest, Fannie Mae filed a UCC Financing Statement in the Office of the City Register on April 21, 2017, File No. 2017000154090, which was continued by the filing of a UCC Financing Statement Amendment in the Office of the City Register on November 24, 2021, File No. 2021000464767.

24. On January April 4, 2017, Rajmattie Persaud (the “Guarantor”) executed a Guaranty of Non-Recourse Obligations to and for the benefit of Greystone (the “Guaranty”). A true and correct copy of the Guaranty is annexed as **Exhibit D** and incorporated herein.

25. Collectively, the Note, Loan Agreement, the Mortgage, the Guaranty, and all exhibits, schedules and attachments thereto and assignments thereof are referred to as the “Loan Documents.”

26. Under Section 3 of the Mortgage Agreement, the Borrower executed an Assignment of Leases and Rents (the “Assignment of Rents”) to Lender. Under the Assignment of Rents, the Borrower absolutely and unconditionally assigned and transferred to Lender all “Rents,” as that term is defined in the Mortgage Agreement. In return, the Lender granted the Borrower a revocable license to collect and receive all Rents, to hold all Rents in trust for the benefit of Lender, to apply all Rents to pay the installments of interest and principal due and payable under the Note and the other amounts due and payable under the Loan Documents, and to pay the costs and expenses of managing and maintaining the Property. The Borrower was further authorized to retain any remaining Rents.

27. Upon the occurrence of an Event of Default (*see* Section 14.01 of the Loan Agreement) under the Loan Documents, the Borrower’s license to collect rents automatically terminates, and Lender is entitled to receive all Rents as they become due and payable. To that end, under Section 3(c) of the Mortgage Agreement, the Borrower agreed to pay any such Rents over to Lender.

II. The Property

28. The Property is located at 23-05 30th Avenue, Astoria, NY 11102; 23-15 30th Avenue, Astoria, NY 11102; and 21-80 38th Street, Astoria, NY 11105 and is more particularly described as follows:

A. Parcel I (23-15 30th Avenue)

All that certain plot, piece or parcel of land situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 30th Avenue (Grand Avenue), distant 100 feet easterly from the corner formed by the intersection of the northerly side of 30th Avenue with the easterly side of 23rd Street (Ely Avenue);

RUNNING THENCE easterly along said northerly side of 30th Avenue, 111 feet;

THENCE northerly parallel with 23rd Street, 100 feet 6 1/8 inches;

THENCE westerly nearly parallel with 30th Avenue, 111 feet;

THENCE southerly parallel with 23rd Street and part of the distance through a party wall, 100 feet 5 inches to the corner aforesaid, the point or place of BEGINNING.

B. Parcel II (2140 3816 Street)

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough of Queens, County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northeasterly side of Ditmars Boulevard (formerly Ditmars Avenue) with the northwesterly side of 38th Street (formerly 9th Avenue);

RUNNING THENCE northeasterly along said northwesterly side of 38th Street, 100.09 feet;

THENCE northwesterly parallel with Ditmars Boulevard, 100.01 feet;

THENCE southwesterly parallel with 38th Street, 100.09 feet to the northeasterly side of Ditmars Boulevard;

THENCE southeasterly along the northeasterly side of Ditmars Boulevard, 100.01 feet to the corner, the point or place of BEGINNING.

C. Parcel III: (23-05 30th Avenue)

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of 30th Avenue, formerly Grand Avenue, with the easterly side of 23rd Street, formerly Ely Avenue;

RUNNING THENCE easterly along said northerly side of 30th Avenue, 100 feet;

THENCE northerly parallel with 23rd Street and pen of the distance through a party wall, 100 feet 5 inches;

THENCE westerly parallel or nearly so with 30th Avenue, 100 feet to the easterly side of 23rd Street;

THENCE southerly along the easterly side of 23rd Street, 100 feet 4 1/8 inches to the corner aforesaid, the point or place of BEGINNING.

III. Personal Liability of Borrower

29. Under Section 3.02(a) of the Loan Agreement, the Borrower agreed to be held personally liable to Lender “for the repayment of the portion of the Indebtedness equal to any loss or damage suffered by Lender as a result of” certain enumerated items listed therein. *See* Ex. B.

30. Among the items for which the Borrower agreed to accept personal liability was its failure to pay Lender, upon demand after an Event of Default, all Rents (*see* Section 3.02(a)(1) of the Loan Agreement) to which Lender is entitled under Section 3(a) of the Mortgage Agreement and the amount of all security deposits collected by the Borrower from tenants. *See* Ex. B.

31. Under Section 3.02(b) of the Loan Agreement, the Borrower agreed to be liable to Lender for the repayment of all the indebtedness due under the Loan Documents, and that the mortgage loan would be fully recourse to the Borrower, upon the occurrence of certain events, including among other things, a bankruptcy filing by the Borrower. *See* Ex. B.

32. Under Section 3.03 of the Loan Agreement, the Borrower agreed to be “personally and fully liable to Lender” for its “indemnity obligations under Section 13.01(e) of [the] Loan Agreement, the Environmental Indemnity Agreement, and any other express indemnity obligations provided by Borrower under any Loan Document.” Ex. B.

33. Under the Guaranty, Guarantor “guarantees to Lender the full and prompt payment and performance when due . . . of all amounts, obligations, and liabilities owed to Lender under Article 3 . . . of the Loan Agreement . . . and all costs and expenses, including reasonable fees and out-of-pocket expenses of attorneys and expert witnesses, incurred by Lender in enforcing its rights under th[e] Guaranty.” Ex. D § 3.

IV. Assignment of the Loan Documents to Plaintiff

34. On or about April 4, 2017, Greystone assigned the Mortgage and Note to Plaintiff via an Assignment of Security Instrument (the “Mortgage Assignment”). A true and correct copy of the Mortgage Assignment, with proof of recording in the Office of the City Register of the City of New York as File No. 2017000154089, is annexed as **Exhibit E** and incorporated herein.

35. Plaintiff is in possession of the original Note, endorsed in blank, which is attached hereto as Exhibit A. By virtue of Plaintiff’s possession of the original Note and the Mortgage Assignment, Plaintiff became and is still the mortgagee on, and owner and holder of, the Note and Mortgage.

36. On or about April 4, 2017, Greystone executed an Assignment of Collateral Agreements and Other Loan Documents to Plaintiff (the “Collateral Agreements Assignment”), which assigned agreements including the Loan Agreement, the Guaranty, and all other Loan Documents “executed in connection with the Mortgage Loan.” A true and correct copy of the Collateral Agreements Assignment is annexed as **Exhibit F** and incorporated herein.

V. Defaults, Fees, and Remedies, Including Foreclosure, Under the Loan Documents

37. Under Section 14.01(a)(1) of the Loan Agreement, any failure by the Borrower to pay or deposit when due any amount required by the Note, the Mortgage Agreement, or any other Loan Document is deemed an automatic “Event of Default.” See Ex. B. This includes failure to pay the principal sum and all accrued but unpaid interest due and payable on the Maturity Date.

38. Under Section 5 of the Mortgage Agreement, following an Event of Default, the Lender may declare the entire amount of the indebtedness immediately due and payable, may institute judicial foreclosure proceedings, is entitled to the *ex parte* appointment of a receiver, and

may invoke any other remedies permitted by the Loan Documents and New York law. *See* Ex. C.

Lender is also entitled to:

all expenditures and expenses authorized by applicable law and all other expenditures and expenses which may be paid or incurred by or on behalf of Lender for reasonable legal fees, appraisal fees, outlays for documentary and expert evidence, stenographic charges and publication costs; . . . and [] all additional advances made pursuant to Section 8303 of the Civil Practice Law and Rules of the State of New York and costs . . . of procuring all abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Lender may deem reasonably necessary either to prosecute any suit or to evidence the true conditions of the title to or the value of the Mortgaged Property to bidders at any sale which may be held in connection with the exercise of Lender's rights and remedies under the Loan Documents. All expenditures and expenses of the nature mentioned in this Section 5, and such other expenses and fees as may be incurred in the protection of the Mortgaged Property and rents and income therefrom and the maintenance of the lien of this Security Instrument, including the fees of any attorney employed by Lender in any litigation or proceedings affecting this Security Instrument, the Note, the other Loan Documents, or the Mortgaged Property, including bankruptcy proceedings, [or] any Foreclosure Event . . . shall be additional Indebtedness and shall be immediately due and payable by Borrower, with interest thereon at the Default Rate until paid.

Id.

39. Under Section 2.02(d)(1)(A) of the Loan Agreement, if any principal, interest, or other indebtedness due under the Loan Documents remains past due for thirty (30) days or more, then interest on such unpaid amount(s) shall accrue from the date payment is due at the "Default Rate." *See* Ex. B. The Default Rate is defined in the Loan Agreement to be the lesser of "the sum of the Interest Rate plus four (4) percentage points" or "the maximum interest rate which may be collected from Borrower under applicable law." *See id.*, Schedule 1.

40. Additionally, under Section 2.02(c) of the Loan Agreement, if any amount payable under the Loan Agreement is not received by Lender within ten days of the due date, the Borrower is required to pay Lender a late charge. *See* Ex. B. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate.

41. Furthermore, under Section 2.01(a) of the Loan Agreement, the Borrower covenanted and agreed to “pay the Indebtedness, including the Prepayment Premiums, if any (whether in connection with any voluntary prepayment or in connection with an acceleration by Lender of the Indebtedness), in accordance with the terms of this Loan Agreement and the other Loan Documents,” and agreed in Sections 2.03(c) and 14.02(a) that upon acceleration of the mortgage loan, it would pay to Lender “(1) the entire unpaid principal balance of the Mortgage Loan; (2) all Accrued Interest . . .; (3) the Prepayment Premium; and (4) all other Indebtedness.” *See* Ex. B.

42. Under the Mortgage Agreement, “Indebtedness” is defined as:

[T]he principal of, interest on, and all other amounts due at any time under the Note, the Loan Agreement, this [Mortgage Agreement] or any other Loan Document (other than the Environmental Indemnity Agreement and Guaranty), including Prepayment Premiums, late charges, interest charged at the Default Rate, and accrued interests as provided in the Loan Agreement and this [Mortgage Agreement], advances, costs and expenses to perform the obligations of Borrower to protect the Mortgaged Property or security of this Security Instrument, all other monetary obligations of Borrower under the Loan Documents (other than the Environmental Indemnity Agreement), including amounts due as a result of any indemnification obligations, and any Enforcement Costs.

Ex. C.

43. Under the Mortgage Agreement, “Enforcement Costs” is defined to include, among other things:

all expenses and costs, including reasonable attorneys’ fees and expenses, fees and out-of-pocket expenses of expert witnesses and costs of investigation, incurred by Lender as a result of any Event of Default under the Loan Agreement or in connection with efforts to collect any amount due under the Loan Documents, or to enforce the provisions of the Loan Agreement or any of the other Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy or insolvency proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding or Foreclosure Event) or judicial or non-judicial foreclosure proceeding, to the extent permitted by law.

Ex. C.

44. Finally, under Section 3(g) of the Mortgage Agreement, if the Rents are not sufficient to meet the Lender’s costs of taking control and managing the Property, Lender is entitled to have any additional funds it expends to operate the Property added to the indebtedness due under the Loan Documents. *See* Ex. C.

VI. The Preceding Forbearance Agreements

45. From April 1, 2020, to May 31, 2022—a period spanning 26 months—the Borrower failed to make its required monthly payments under the Loan Documents (the “Forborne Monthly Payments”).

46. During this period, Greystone Servicing Corporation, Inc., in its capacity as loan servicer (the “Servicer”), acting on behalf of Plaintiff, and the Borrower entered into seven separate forbearance agreements. Under these agreements, Plaintiff agreed to refrain from exercising its rights and remedies under the Loan Documents in exchange for the Borrower’s acknowledgment of its default, waiver of claims and defenses, and acceptance of specific conditions set forth in the agreements (collectively, the “Preceding Forbearance Agreements”).¹

47. One of the conditions of the Preceding Forbearance Agreements required the Borrower to repay all Forborne Monthly Payments over a term not exceeding four times the forbearance period—amounting to an aggregate term of 104 months (4x26). These payments were to be made in equal monthly installments (the “Monthly Forbearance Payments”) in addition to the standard monthly payments already due under the Loan Documents. *See* Exs. H-M ¶ 4.

¹ A true and correct copy of the following are annexed hereto and incorporated herein: **Exhibit G**, Forbearance Agreement dated May 6, 2020; **Exhibit H**, Forbearance Extension Form dated July 27, 2020; **Exhibit I**, Extension of Forbearance and Non-Waiver dated November 2020; **Exhibit J**, Extension of Forbearance and Non-Waiver dated April 14, 2021; **Exhibit K**, Extension of Forbearance and Non-Waiver dated June 25, 2021; **Exhibit L**, Extension of Forbearance and Non-Waiver dated September 24, 2021; **Exhibit M**, Extension of Forbearance and Non-Waiver dated January 3, 2022.

48. The Preceding Forbearance Agreements also expressly provided that they did not modify the Maturity Date of the Loan. Regardless of any payment schedule established for the repayment of the Forborne Monthly Payments, all outstanding amounts under the Loan remained due and payable on the Maturity Date. Exs. H-M ¶ 4.

49. Additionally, the “Borrower unconditionally acknowledge[d] to be indebted to Fannie Mae for all amounts presently unpaid and outstanding under the Note, in principal, interest, and other amounts, without defense, setoff, deduction or counterclaim or any kind whatsoever, all of which are forever waived and released.” Ex. G ¶ 10.

50. The Borrower “additionally unconditionally acknowledge[d] and agree[d] that no act, event or circumstances occurring since the date of the Note and the other Loan Documents shall give rise to any claims or cause of action (regardless of whether based on common or civil law, equity, statute, regulations, or other grounds) against Fannie Mae or Servicer, or against any of their respective officers, directors, employees, successors, assigns, agents, and attorneys (collectively, the “Released Parties”), with Borrower hereby unconditionally and fully releasing and forever discharging the Released Parties from all actions, causes of action, claims and/or demands [of] every nature whatsoever . . . that Borrower may have against any Released Party . . .” Ex. G ¶ 11.

51. In each successive Forbearance Agreement, the Borrower ratified and affirmed that the terms and conditions of the Preceding Forbearance Agreements remained in full force and effect. *See* Ex. H ¶ 6; Exs. I-M ¶ 7.

VII. Failure to Make Payment Due on Maturity Date

52. On May 1, 2024, the Maturity Date, the Borrower failed to pay all amounts due and owing under the Loan Documents, including the principal sum, all accrued but unpaid interest, and the outstanding Forborne Monthly Payments, as required under the Loan Documents. Such

failure to pay the amounts due on the Maturity Date constituted an Event of Default under the Loan Documents, entitling Plaintiff to exercise all its rights and remedies under the Loan Documents.

53. On or about May 21, 2024, Plaintiff sent a letter to the Borrower notifying it that it was in default of its obligations under the Loan Documents by virtue of its failure to pay the amounts due on the Maturity Date (the “Demand Letter”). A true and correct copy of the Demand Letter is annexed as **Exhibit N** and incorporated herein.

54. In the Demand Letter, Plaintiff demanded that the Borrower pay immediately all outstanding principal and accrued and unpaid interest under the Note, in its entirety, together with all applicable charges and all costs, expenses, and attorneys’ fees incurred by Plaintiff. *See* Ex. N. Plaintiff notified the Borrower that, by reason of the defaults, Plaintiff may immediately institute foreclosure proceedings under the Mortgage and may otherwise exercise any and all other rights and remedies enumerated in the Loan Documents or otherwise available at law or in equity. *See id.* These rights and remedies included, without limitation, the appointment of a receiver over the Property. *See id.*

55. Additionally, in the Demand Letter, Plaintiff gave notice that the Borrower’s license to collect Rents at the Property was terminated, and that Plaintiff is now entitled to all Rents as they become due and payable. *See id.* The Demand Letter went on to demand that any Rents collected by the Borrower after the occurrence of the Event of Default on May 1, 2024 be received and held by the Borrower in trust for the benefit of Plaintiff, and only applied to “bona fide current operating expenses to third parties in connection with the operation of the property with excess paid to Fannie Mae, to be applied in accordance with the Loan Documents.” *Id.*

VIII. Post-Maturity Forbearance Agreements

56. Following the occurrence of the Event of Default based on the Borrower's failure to make payment on the Maturity Date, Fannie Mae, the Servicer, the Borrower, and the Guarantor agreed to commence discussions concerning the Loan. On or about May 23, 2024, these parties entered in a Pre-Negotiation Letter to govern those discussions (the "PNL"). A true and correct copy of the PNL is attached as **Exhibit O**.

57. Among other things, in the PNL the Borrower and Guarantor (i) "acknowledge[d] and agree[d] that Borrower is in default under the Loan Documents and that Fannie Mae is entitled to exercise any and all rights and remedies set forth in the Loan Documents, at law or in equity," (ii) "waive[d] and release[d] any and all claims that they may have against Fannie Mae or Servicer related to the Loan Documents," (iii) "waive[d] and release[d] any and all defenses that they may have to the rights and remedies of Fannie Mae, and as appropriate, the Servicer, under the provisions of the Loan Documents and applicable law," (iv) "acknowledge[d] that each of the Loan Documents is valid, fully enforceable in accordance with its terms, and evidences legal and binding obligations which are in full force and effect," (v) "acknowledge[d] that the Loan is in default and that the Loan was properly accelerated by Fannie Mae under the terms of the Loan Documents," and (vi) "acknowledge[d] that Fannie Mae is the owner and holder of the note executed in connection with the Loan." *Id.* ¶¶ 1, 3, 7, 9.

58. On July 19, 2024, the Borrower, Guarantor, and Plaintiff executed a Forbearance Agreement and Acknowledgment of Default (the "Eighth Forbearance Agreement"), pursuant to which Plaintiff agreed to forbear from exercising its rights and remedies under the Loan Documents until October 31, 2024. In return, the Borrower agreed to, among other things, repay the Loan in full no later than October 31, 2024, including payment of all amounts due under the

Loan Documents. A true and correct copy of the Eighth Forbearance is annexed hereto as **Exhibit P** and incorporated by reference.

59. The Borrower failed to make payment of all amounts due and owing under the Loan Documents by October 31, 2024 in accordance with the Eighth Forbearance Agreement.

60. On November 1, 2024, Plaintiff, the Borrower, and the Guarantor executed a First Amended Forbearance Agreement and Acknowledgment of Default (the “Final Forbearance Agreement”), whereby Plaintiff agreed to forbear from exercising its rights and remedies under the Loan Documents, including initiating foreclosure proceedings, through February 1, 2025 (the “Final Forbearance Period”). A true and correct copy of the Final Forbearance Agreement is annexed hereto as **Exhibit Q** and incorporated by reference.

61. Pursuant to the terms of the Final Forbearance Agreement, the Borrower agreed to (i) pay the Servicer a forbearance fee of \$20,000 per month (each such payment, a “Forbearance Fee”) during the three-month Final Forbearance Period, (ii) pay the Servicer the amount of the Monthly Payment that had been due and owing prior to the Maturity Date in the amount of \$295,685.25 per month during the three-month Final Forbearance Period, and (iii) repay the Loan in full no later than February 1, 2025, including all amounts due under the Loan Documents, as well as attorneys’ fees, expenses, and default interest. *Id.* ¶¶ 1, 3, 4.

62. In both the Eighth Forbearance Agreement and the Final Forbearance Agreement, the Borrower and Guarantor, (i) “acknowledge[d] that the Borrower is indebted to Fannie Mae for all amounts presently unpaid and outstanding under the Loan Documents, without any defense, setoff, deduction, or counterclaim of any kind whatsoever,” and (ii) “waive[d] any and all defenses, including affirmative defenses, and counterclaims that they could conceivably assert in connection with any foreclosure or receivership action by Fannie Mae or the Servicer,” (iii) “re-affirm[ed] the

waiver and release” contained in the PNL, and (iv) executed a broad release of all claims against Fannie Mae and Servicer. *Id.* ¶¶ 5, 6.

63. In the Final Forbearance Agreement, the Borrower and Guarantor also agreed that, “in the event of failure to repay the Loan in full by February 1, 2025, the Loan shall become fully recourse to the Guarantor consistent with the full recourse provisions of Section 3.02(b) of the Loan Agreement, Section 5 of the Note, and the Guaranty.” *Id.* ¶ 7(a).

64. In the Final Forbearance Agreement, the Borrower and Guarantor also agreed that, in the event of a Borrower default, (i) “Fannie Mae shall, with no notice to Borrower, be permitted immediately to prosecute a foreclosure action, including seeking a receiver, with Borrower continuing to remain liable for all costs and expenses due under the Loan Documents, including all legal fees and costs incurred in connection with enforcing and collecting amounts due under the Loan Documents and prosecuting a foreclosure action, (ii) the Borrower and Guarantor agree[d] to consent to and not oppose or interfere with the foreclosure of the property, including any motion to appoint a receiver, any default judgment motion, [any] summary judgment motion, and/or entry of a Judgment of Foreclosure and Sale, and (iii) the Borrower and Guarantor agree[d] not to raise or assert any defenses to foreclosure (including affirmative defenses), or assert any counter- or cross-claims.”

IX. Events of Default under the Final Forbearance Agreement

65. The Borrower committed multiple defaults under the Final Forbearance Agreement.

66. First, the Borrower failed to pay the Forbearance Fee due for the Month of December 2024 in the amount of \$20,000.

67. Second, the Borrower failed to pay the Forbearance Fee due for the month of January 2025 in the amount of \$20,000.

68. Third, the Borrower failed to remit the full Monthly Payment of \$295,685.25 due for the month of January 2025, leaving an outstanding balance of \$95,685.25.

69. And fourth, the Borrower failed to repay the Loan in full by February 1, 2025.

70. Plaintiff did not grant any further forbearance past February 1, 2025. Thus, Plaintiff's agreement to forbear from exercising rights and remedies, including filing this foreclosure action, elapsed as of February 1, 2025.

71. On February 13, 2025, Plaintiff sent a letter to the Borrower notifying it that it was in default of its obligations under the Loan Documents (inclusive of all the forbearance agreements) by virtue of its failure to pay the Forbearance Fees due for December 2024 and January 2025, the Monthly Payment due for January 2025, and the Pay Off Amount (as such term was defined in the Final Forbearance Agreement) (the "Second Demand Letter"). A true and correct copy of the Second Demand Letter is annexed as **Exhibit R** and incorporated herein.

72. The terms of the Second Demand Letter were otherwise substantially similar to the terms of the original Demand Letter. In the Second Demand Letter, Plaintiff demanded that the Borrower pay immediately all outstanding principal and accrued and unpaid interest under the Note, in its entirety, together with all applicable charges and all costs, expenses, and attorneys' fees incurred by Plaintiff. *See* Ex. R. Plaintiff notified the Borrower that, by reason of the defaults, Plaintiff may immediately institute foreclosure proceedings under the Mortgage and may otherwise exercise any and all other rights and remedies enumerated in the Loan Documents or otherwise available at law or in equity. *See id.* These rights and remedies included, without limitation, the appointment of a receiver over the Property. *See id.*

73. Additionally, in the Second Demand Letter, Plaintiff gave notice that the Borrower's license to collect Rents at the Property was terminated, and that Plaintiff is now entitled to all Rents

as they become due and payable. *See id.* The Second Demand Letter went on to demand that any Rents collected by the Borrower be received and held by the Borrower in trust for the benefit of Plaintiff and only applied to “bona fide current operating expenses to third parties in connection with the operation of the property with excess paid to Fannie Mae, to be applied in accordance with the Loan Documents.” *Id.*

74. As of the filing of this Complaint, the Borrower has not turned over any Rents or security deposits to Plaintiff.

X. Liens on the Property

75. Pursuant to Section 11.02(a) of the Loan Agreement, the Borrower is expressly prohibited from allowing the granting, creation, or existence of any lien—whether voluntary, involuntary, or arising by operation of law—on any portion of the Property. Furthermore, pursuant to Section 11.02(b) of the Loan Agreement, the Borrower shall not “cause or permit a Transfer,” which term is defined to include “a granting, pledging, creating or attachment of a lien, encumbrance or security interest (whether voluntary, involuntary, or by operation of law).” *See* Ex. B.

76. Furthermore, pursuant to Section 6.02(e)(1) and (4) of the Loan Agreements, the Borrower is obligated to comply with all laws, ordinances, statutes, rules, and regulations of any Governmental Authority and all recorded lawful covenants and agreements relating to the Property, and to maintain records sufficient to demonstrate compliance with Section 6.02(e)(1). *See* Ex. B.

77. Recent title reports for the three properties—23-05 30th Avenue, 23-15 30th Avenue, and 21-80 38th Street—reveal the existence of multiple junior encumbrances to be foreclosed in this action.

78. First, the HPD obtained a judgment in the Queens County Civil Court (Index No. HP-312/23) against the Borrower, which it docketed as a lien against the Property on October 16, 2023, in the amount of \$2,000.

79. Second, Approved Oil recorded a UCC Financing Statement asserting a lien on all fixtures and equipment located at 23-15 30th Avenue on July 11, 2023 under City Register File Number 2023000171609.

80. Third, Approved Oil recorded a UCC Financing Statement asserting a lien on all fixtures and equipment located at 23-05 30th Avenue on December 18, 2023 under City Register File Number 2023000328263.

81. And fourth, the ECB has issued multiple violations against the properties. Many of these violations have resulted in judgments docketed against the respective properties as set forth immediately below.

A. ECB Liens Against 23-05 30th Avenue

82. The ECB has issued various violations against 23-05 30th Avenue, amounting to \$77,648.48 in fines. The violations include:

Date of Violation	Date of Judgment	Violation Number	Violation Description	Total Amount Due (\$USD)	Issuing Agency
2019.03.06	2019.08.31	03539261R	Electrical work without a permit	\$11,919.56	Department of Buildings
2019.03.06	2019.08.31	035359260P	Failure to provide effective control for metal raceways enclosures cable armor	\$8,939.67	Department of Buildings
2019.03.06	2019.04.29	011673214Z	Rooftop access and means of egress	\$1,497.59	New York City Fire Department

Date of Violation	Date of Judgment	Violation Number	Violation Description	Total Amount Due (\$USD)	Issuing Agency
2021.01.03	2021.07.31	035475374L	Failure to maintain building in code compliant manner	\$16,466.78	Department of Buildings
2021.01.03	2021.07.31	035474829Y	Violation of parking regulations in a residential district	\$4,116.70	Department of Buildings
2021.01.03	2021.07.31	035475373J	Change in occupancy	\$16,466.78	Department of Buildings
2021.06.09	2021.10.26	000424973N	Failure to file notice of mold project as required	\$1,300	Bureau of Environmental Compliance
2021.06.04	2021.10.26	000426370N	Failure to file notice of mold project as required	\$6,500	Bureau of Environmental Compliance
2021.07.01	2021.12.21	000680792R	Unregistered boiler or water heater	\$2,080	Bureau of Environmental Compliance
2022.04.25	N/A	047412739M	Dirty sidewalk	\$361.40	New York City Department of Sanitation

B. ECB Liens Against 23-15 30th Avenue

83. The ECB has issued several violations against 23-15 30th Avenue, resulting in \$26,793.32 in fines:

Date of Violation	Date of Judgment	Violation Number	Violation Description	Total Amount Due (\$USD)	Issuing Agency
2016.04.20	2026.11.04	011468763Z	Multiple infractions	\$6,603.96	New York City Fire Department
2019.03.06	2019.04.29	011673215K	Rooftop access and means of egress	\$1,497.59	New York City Fire Department

Date of Violation	Date of Judgment	Violation Number	Violation Description	Total Amount Due (\$USD)	Issuing Agency
2020.02.21	2020.12.28	000422990X	Unregister boiler or water heater	\$2,789.82	Bureau of Environmental Compliance
2021.01.03	2021.07.31	035474830L	Failure to provide unobstructed exit passageway	\$4,116.70	Department of Buildings
2021.05.17	N/A	047088670L	Failure to clean 18 inches into street	\$386.18	New York City Department of Sanitation
2021.05.25	N/A	046959546Z	Recyclables placed for collection with non-recyclables	\$128.73	New York City Department of Sanitation
2021.07.01	2021.09.15	000426407H	Unregistered boiler or water heater	\$2,080	Bureau of Environmental Compliance
2021.07.01	2021.12.21	000680793Z	Unregistered boiler or water heater	\$2,080	Bureau of Environmental Compliance
2021.10.07	N/A	035581803J	Failure to maintain building in code compliant manner	\$3,906.34	Department of Buildings
2022.09.20	2021.02.15	000684462M	Unregistered boiler or water heater	\$2,080	Bureau of Environmental Compliance
2023.10.17	2024.01.03	000688070L	Multiple infractions	\$3,120	Bureau of Environmental Compliance
2024.09.24	N/A	048672116N	Failure to properly put recycling out for collection	\$25	New York City Department of Sanitation
2025.02.01	N/A	048906088Y	Failure to clean 18 inches into street	\$59	New York City Department of Sanitation

C. ECB Liens Against 21-80 38th Street

84. The ECB has issued one violation against 21-80 38th Street, dated October 17, 2024, for recycling placed for collection with non-recyclables, carrying a fine of \$25 (violation number 048694177Y).

XI. Receivership

85. Upon the occurrence of an Event of Default, the Borrower acknowledged repeatedly in the Loan Documents that Plaintiff is entitled to the *ex parte* appointment of a receiver to oversee the Property.

86. Section 7.02(a)(2) of the Loan Agreement states that the Borrower shall “surrender possession of the Mortgaged Property, including all Leases and all security deposits and prepaid Rents, immediately upon appointment of a receiver or Lender’s entry upon and taking of possession and control of the Mortgaged Property.” Ex. B.

87. Under Section 3(e) of the Mortgage Agreement, “if an Event of Default has occurred . . . Lender may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in Section 3 . . . [and] Borrower, by its execution of this Security Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver *ex parte*, if permitted by applicable law.” Ex. C.

88. Under Section 3(e) of the Mortgage Agreement, the Borrower further agreed to “shortened time consideration of a motion to appoint a receiver,” and that, “[i]mmediately upon appointment of a receiver . . . possession of the Mortgaged Property and all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Mortgaged Property, and all security deposits and prepaid Rents, shall be surrendered to Lender or the receiver, as applicable.” *Id.*

89. Finally, in both the Eighth Forbearance Agreement and the Final Forbearance Agreement, the Borrower and Guarantor “waive[d] any and all defenses, including affirmative defenses, and counterclaims that they could conceivably assert in connection with any . . . receivership action by Fannie Mae or the Servicer,” and in the Final Forbearance Agreement, the Borrower and Guarantor also agreed that, in the event of a Borrower default thereunder, “the Borrower and Guarantor agree[d] to consent to and not oppose or interfere with the foreclosure of the property, including any motion to appoint a receiver.”

FIRST CAUSE OF ACTION

(Appointment of Receiver, Foreclosure of the Mortgage, and Deficiency Judgment)

90. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-89 above as though fully set forth herein.

91. The Borrower committed an Event of Default under the Loan Documents by failing to pay off the Mortgage in full on the Maturity Date.

92. Plaintiff’s agreement to forbear from exercising rights and remedies under the Loan Documents elapsed on February 1, 2025.

93. The Borrower committed various defaults under the Final Forbearance Agreement by failing to make certain payments thereunder, including paying off the Mortgage on or before February 1, 2025.

94. As a result of the Event of Default and expiration of the forbearance period, Plaintiff is entitled to exercise all rights and remedies under the Loan Documents, including appointment of a receiver and foreclosure of the Property.

95. As a result, of the defaults under the Final Forbearance Agreement, the Loan became fully recourse to the Guarantor consistent with the full recourse provisions of Section 3.02(b) of the Loan Agreement, Section 5 of the Note, and the Guaranty.

96. The following amounts are due and owing under the Loan Documents, no part of which has been paid by the Borrower, although duly demanded: (a) the outstanding principal sum of \$30,967,065.68; (b) accrued but unpaid interest thereon, including interest accruing at the Default Rate since May 1, 2024; (c) late charges; and (d) rental payments and security deposits owed under the Note and Assignment of Rents to be determined. These sums are exclusive of other costs and expenses Plaintiff has incurred and will incur in connection with exercising its rights under the Loan Documents during the pendency of this action, including tax payments, insurance premiums, advances to a receiver to protect and maintain the Property, attorneys' fees and expenses, expert witness fees, costs of investigations (including property condition assessments and environmental inspections), appraisals, costs of documentary evidence, abstracts, title reports, statutory costs, allowances made pursuant to Section 8303 of the Civil Practice Law and Rules, and any additional funds Plaintiff expends to operate the Property.

97. Plaintiff has fulfilled all of its obligations under the Loan Documents.

98. Greystone has fulfilled all of its obligations under the Loan Documents.

99. No other action or proceeding has been brought at law or otherwise for the recovery of said sum secured by the Loan Documents, or any part thereof.

100. The ECB has been made a defendant by virtue of its outstanding violations and judgments docketed against the Property described at greater length herein.

101. The HPD has been made a defendant by virtue of its outstanding judgment against the Property described at greater length herein.

102. Approved Oil has been made a defendant by virtue of its purported outstanding liens against the fixtures and equipment at the Property as described at greater length herein.

103. The Defendants John Doe # 1 through John Doe # 119 have been made defendants because they are or may be tenants or may be in possession of the Property or may be corporations or other entities or persons who claim, or may claim, a lien against the Property.

104. Any claim that any of the defendants in this action have on the Property is subject and subordinate to the lien of Plaintiff evidenced by and described in the Loan Documents.

105. Plaintiff seeks a judgment, as more fully set forth below, (i) appointing a Receiver to manage and operate the Property, (ii) foreclosing the Mortgage on the Property and directing the sale thereof, and (iii) awarding Plaintiff a money judgment against (a) the Borrower for the portion of the total indebtedness due under the Loan Documents equal to any loss or damages suffered by Plaintiff as a result of the items enumerated in Article 3 of the Loan Agreement, including Rents and security deposits as described therein and (b) the Guarantor for the total deficiency in the indebtedness due and owing under the Loan Documents following the foreclosure sale of the Property.

106. Plaintiff requests that in the event that this action will proceed to judgment of foreclosure and sale, the Property should be sold subject to the following:

- (a) any state of facts that an inspection of the premises would disclose;
- (b) any state of facts that an accurate survey of the premises would show;
- (c) covenants, restrictions, easements, and public utility agreements of record, if any;
- (d) building and zoning ordinances of the municipality in which the Property is located and possible violations of same;
- (e) any rights of tenants or persons in possession of the Property;
- (f) any equity of redemption of the United States of America to redeem the premises within 120 days from the date of sale; and

(g) prior lien(s) of record, if any.

107. Plaintiff shall not be deemed to have waived, altered, released, or changed any demand made in this Complaint, as a result of any payment made by the Borrower after the commencement of this action, or any of the defaults mentioned herein, and such demands shall continue and remain effective.

PRAYER FOR RELIEF

Wherefore, Plaintiff demands judgment as follows:

(a) That the defendants, and each of them, and all persons claiming under defendants, or any of them, subsequent to the commencement of this action and the filing of a notice of pendency thereof, be barred and foreclosed of and from all estate, right, title, interest, claim, lien and equity of redemption of, in and to the Property and each and every part and parcel thereof;

(b) That a receiver possessing such powers as those granted to him/her under the Mortgage Agreement and applicable law be appointed for the Property;

(c) That the Property may be decreed to be sold in one or more parcels according to law;

(d) That the monies arising from the sale of Property may be brought into Court;

(e) That the amount due Plaintiff under the Loan Documents be adjudged, and that from the monies arising from the foregoing sale, Plaintiff be paid the amount due it under the Loan Documents with interest to the time of such payment, the expenses of sale, and the costs and expenses of this action, including reasonable attorneys' fees and expenses, together with any monies which may be paid by Plaintiff for taxes, water and sewer charges and assessments, insurance premiums, and all other charges and liens thereon to be paid, with interest at the Default Rate upon such amounts from the dates of the respective payments and advances thereof, so far as the amounts of monies properly allocable thereto will pay the same;

(f) That the Borrower may be adjudged to pay all amounts due under Article 3 of the Loan Agreement for which it agreed to be held personally liable;

(g) That the Guarantor may be adjudged to pay the total deficiency in the indebtedness due and owing under the Loan Documents following the foreclosure sale of the Property and distribution of the proceeds thereof; and

(h) That Plaintiff be awarded such other and further relief as shall be just and equitable.

New York, New York
Dated: March 12, 2025

Respectfully submitted,

AKIN GUMP STRAUSS HAUER & FELD

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