

FOR REGISTRATION
Sharon A. Davis
REGISTER OF DEEDS
Durham County, NC
2018 Mar 28 03:34:40 PM
BK:8391 PG:967-974
DEED
FEE: \$26.00
INSTRUMENT # 2018010186
EXCISE TAX: \$76,400.00
TREFEARN



NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: [\$ 76,400.00]

Parcel Identifier Nos. 140112 & 140089

Verified by Durham County on the _____ day of _____, 2018

By: _____

Mail/Box to: _____

This instrument was prepared by (and after recording mail to):

Seyfarth Shaw LLP
1075 Peachtree Street, N.E.
Suite 2500
Atlanta, Georgia 30309
Mark Block, Esq.

Brief description for the Index:

Those two tracts of land lying in the City of Durham, Durham County, more commonly known as "Oak Creek Village" and located at 4210 & 4230 Garrett Road, Durham, North Carolina 27707

THIS DEED made this 15th day of March, 2018, by and between

GRANTOR

RCP Wellington Two, LLC, a Delaware limited liability company, having an address of 16 East 52nd Street, 7th Floor, New York, New York, 10022, Attn: Jonathan Rosen

GRANTEE

ACV XIII LLC, a Delaware limited liability company, having an address of c/o Audubon Communities, 6525 The Corners Parkway, Suite 216, Peachtree Corners, Georgia 30092.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all those certain lots or parcels of land situated in the City of Durham, Durham County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT A

Together with all appurtenances thereon or in anywise appertaining thereto and all buildings, structures, fixtures and improvements located thereon.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 5400, at Page 263-271, Durham County Public Registry.

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following exceptions:

SEE ATTACHED EXHIBIT B

By acceptance of this Special Warranty Deed, Grantee acknowledges and agrees that any and all liability hereunder of Grantor, its agents, representatives or employees, including the Special Warranty of title herein contained, shall be limited to and satisfied solely from the Grantor's proceeds from the Property.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

GRANTOR:

RCP WELLINGTON TWO, LLC,
a Delaware limited liability company

By: RCP OWNERS II, LLC, a New York limited liability company, its manager

By: RCP GENERAL INC., a Delaware corporation, its managing member

By: *Jonathan Rosen*
Name: Jonathan A. Rosen
Title: President

State of New York

County or City of New York

I, the undersigned Notary Public of the County or City of New York and State aforesaid, certify that Jonathan A. Rosen personally came before me this day and acknowledged that he is the President of RCP General, Inc., a Delaware corporation, which is the managing member of RCP Owners II, LLC, a New York limited liability company, and which is the manager of RCP Wellington Two, LLC, a Delaware limited liability company and the Grantor in the foregoing instrument, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 7th day of March, 2018.

My Commission Expires: 9/23/18
(Affix Seal)

Emelinda Santiago
Emelinda Santiago Notary Public
Notary's Printed or Typed Name

EMELINDA SANTIAGO
Notary Public, State of New York
No. 01SA5066399
Qualified in New York County
Commission Expires September 23, 2018

Exhibit ALegal Description

Those two tracts lying and being in the City of Durham, Durham County, North Carolina and more particularly described as follows:

TRACT 1: BEGINNING at an iron stake set in the western right of way line of Garrett Road, said stake being located South 29 degrees 17 minutes East 412.00 feet from the corner at the southwest quadrant of the intersection of Garrett Road and Durham Chapel Hill Boulevard (U.S. Highway 15-501) Service Road; thence with the western right-of-way line of Garrett Road South 29 degrees 17 minutes East 160.00 feet to a control corner, corner with the lands shown as Lot No. 1 on the plat of record in Plat Book 105, Page 134, Durham County Registry; thence with the line of said Lot No. 1 (being also the northern property line of Wellington Place Apartments), South 62 degrees 41 minutes West 1123.75 feet to a stake, a control corner; thence continuing with the line of Town and Campus, of Durham, North Carolina, Inc. (now or formerly), North 29 degrees 17 minutes West 320.00 feet to a stake; thence North 62 degrees 41 minutes East 161.90 feet to a stake, also the southeast corner of Town and Campus of Durham, North Carolina, Inc. as recorded in Deed Book 339, Page 586; thence North 29 degrees 20 minutes West 218.13 feet to a stake set in the eastern right-of-way line of the Durham Chapel Hill Boulevard (U.S. Highway 15-501); thence with said right-of-way North 60 degrees 40 minutes East 648.39 feet to a stake, corner with the lands of (now or formerly) Gilbert/Robinson, Inc.; thence with the Gilbert/Robinson, Inc. line South 29 degrees 20 minutes East 400.96 feet to a stake; thence North 62 degrees 41 minutes East 312.93 feet to the point and place of Beginning, and containing 10.518 acres more or less, according to that certain plat prepared by Credle Engineering Company Inc., Durham, North Carolina, entitled "New Hope Creek Apartments, Property of Wellington Properties LLC," dated November 17, 1997.

LESS AND EXCEPT the following described 50 foot square parcel which was conveyed by Town and Campus of Durham, North Carolina, Inc., to the City of Durham for a lift or pump station site by deed recorded in Deed Book 341, Page 547. Durham County Registry.

BEGINNING at a point within the boundaries of a 19.1 acre (more or less) tract purchased by Collegiate Enterprises, Inc., from Alma Garrett, et vir as shown by deed of record in Book 321, Page 261, Durham County Registry, thereby conveyed by Collegiate Enterprises, Inc., to Town and Campus of Durham, North Carolina, Inc., by deed of record in Book 339, Page 586, Durham County Registry, said BEGINNING POINT being reached by commencing at the intersection of the southern property line of Durham-Chapel Hill Boulevard (U.S. Highway 15-501) with the northwestern right-of-way line of Garrett Road and following the following courses and distances: South 29 degrees 17 minutes East 573.00 feet, more or less, along the northwest right-of-way line of Garrett Road to a stake in the northwestern right-of-way line of Garrett Road, the former northeastern corner of the said 19.1 acre tract; thence South 62 degrees 41 minutes West along the southern boundary of the said 19.1 acre tract 980.00 feet to a point in said southern property line; thence North 27 degrees 19 minutes West 115.00 feet to a point, the southeastern corner of the subject parcel as shown on a plat of survey hereinafter mentioned, the point and place of beginning, and the boundary of said parcel runs thence South 62 degrees 41 minutes West 50.00 feet to a point; thence North 27 degrees 19 minutes West 50.00 feet to a point; thence North 62 degrees 41 minutes East 50.00 feet to a point, thence South 27 degrees 19 minutes East 50.00 feet to a point, the point and place of beginning, being a square parcel containing 0.06 acre, more or less, as shown on a plat entitled "City of Durham Lift Station Site, Sanitary Sewer Easement, Water Meter

Easement," dated March, 1968, prepared by Credle Engineering Company, which said plat is recorded in the Durham County Registry, in Plat Book 59, Page 60, to which plat reference is hereby made for a more particular description.

AND LESS AND EXCEPT the property conveyed via Deed Book 5232, Page 624 and as shown on plat recorded in Plat Book 172, Page 263, Durham County Registry.

TRACT 2:

BEGINNING at an iron stake set in the western right-of-way line of Garrett Road, said stake being located South 29 degrees 17 minutes East 572.00 feet from the corner at the southwest quadrant of the intersection of Garrett Road and Durham Chapel Hill Boulevard (U.S. Highway 15-501) Service Road, and thence with the western right-of-way line of Garrett Road South 29 degrees 08 minutes East 275.00 feet to an iron stake, the point and place of True Beginning; thence from said point of True Beginning with the western right-of-way line of Garrett Road South 29 degrees 17 minutes East 40.00 feet to a stake, corner with the lands platted of record in Plat Book 114, Page 192, Durham County Registry; thence with the line of said lands South 62 degrees 41 minutes West 284.99 feet to a stake and South 29 degrees 08 minutes East 70.29 feet to a stake, the northwest corner of Lot B as shown on the plat of record in Plat Book 114, Page 192, Durham County Registry, thence along a clockwise curve having a chord bearing and distance of South 22 degrees 53 minutes East 560.15 feet, a delta angle of 12 degrees 30 minutes, a tangent of 281.77 feet, an arc length of 561.26 feet and a radius of 2,572.65 feet to a stake; thence continuing with the line of Lot No. 1 as shown in the plat of record in Plat Book 112, Page 155, Durham County Registry, South 16 degrees 38 minutes East 307.29 feet to a stake just on the south side of Sandy Creek; thence South 47 degrees 04 minutes West 76.78 feet to a stake on the south bank of Sandy Creek as it meanders in a generally westerly direction, the following calls (tie lines): South 86 degrees 25 minutes West 55.52 feet, North 80 degrees 43 minutes West 64.63 feet, South 55 degrees 44 minutes West 88.14 feet, South 49 degrees 33 minutes West 227.53 feet, South 56 degrees 26 minutes West 171.59 feet and South 58 degrees 22 minutes West 305.81 feet to the confluence of Sandy Creek and New Hope Creek; thence up the run of New Hope Creek (the run of the creek being the line) the following calls (tie lines along the creek): North 01 degree 31 minutes West 62.77 feet, North 58 degrees 09 minutes West 92.60 feet, North 11 degrees 46 minutes West 67.13 feet, North 26 degrees 52 minutes West 225.10 feet, North 00 degrees 29 minutes West 114.33 feet, North 28 degrees 46 minutes West 108.74 feet, North 30 degrees 35 minutes West 251.94 feet, North 37 degrees 14 minutes West 99.42 feet North 19 degrees 32 minutes West 247.95 feet and North 04 degrees 22 minutes West 84.42 feet to a control corner with the lands of (now or formerly) Town and Campus of Durham, North Carolina, Inc., described in Book 339, Page 586, Durham County Registry; thence with the line of Town and Campus and New Hope Creek Apts, North 62 degrees 41 minutes East 965.91 feet to a stake, also being the northwest corner of Lot #1, Plat Book 105, Page 134, Durham County Registry; thence with the west line of Lot #1, South 29 degrees 08 minutes East 275.00 feet to a stake, the southwest corner of Lot #2, Plat Book 105, Page 134; thence continuing with the south line of Lot #2, North 62 degrees 41 minutes East 284.99 feet, to a stake set in the western right-of-way of Garrett Road, being the point and place of True Beginning and containing 30.305 acres more or less, according to that certain plat prepared by Credle Engineering Company Inc., Durham, North Carolina, entitled "Wellington Place Apartments, Property of Wellington Properties LLC" dated November 17, 1997.

For chain of title see deed recorded in Book 1892, Page 272, Durham County

Registry. Tracts 1 and 2 are the identical property as described compositely in such deed.

Exhibit BPermitted Exceptions

1. Taxes or assessments for the year 2018, and subsequent years, not yet due or payable.
2. Any right, easement, setback, interest, claim, encroachment, encumbrance, violation, variations or other adverse circumstance affecting the Title disclosed by plat(s) recorded in Plat Book 59, Page 60 ; Plat Book 101, Page 199; Plat Book 105, Page 134; and Plat Book 172, Page 263, Durham County Registry, which are more particularly depicted on that certain ALTA/NSPS Land Title Survey for Oak Creek Apartments, dated January 12, 2018, Job No. 2017\170273\ALTA 180103, prepared by Credle Engineering Company, Inc., William C. Credle, Reg. No. L-4277 (the "Survey")."
3. Easement to Duke Energy Carolinas LLC recorded in Book 5608, page 645, Durham County Registry.
4. Easement, Dedication and Maintenance Agreement recorded in Book 1119, page 882, Durham County Registry.
5. Sewer Easement to John W. Blanchard recorded in Book 396, pages 330 and 335, Durham County Registry.
6. Sewer Easement to the City of Durham recorded in Book 429, page 873, and Book 1510, page 958, Durham County Registry.
7. Easements to Duke Power Company recorded in Book 199, page 543; Book 245, page 594; Book 254, page 704; Book 275, page 149; Book 349, page 538; and Book 219, page 81, Durham County Registry.
8. Rights of way to State Highway Commission recorded in Book 215, page 56; and Book 336, pages 132, 138 and 198, Durham County Registry.
9. Easement(s) to Durham Public Service Company recorded in Book 121, page 128 and 129, Durham County Registry.
10. Meter Service Easement to City of Durham recorded in Book 341, page 559, Durham County Registry.
11. Sewer Easement recorded in Book 341, page 553, Durham County Registry.
12. Easement(s) to Time Warner Entertainment/Advance Newhouse Partnership recorded in Book 6035, page 747, Durham County Registry.
13. Land Use Restriction Agreement by and between Resolution Trust Corporation in Garrett Square Apartments Limited Partnership recorded in Book 1892, page 279, Durham County Registry. The Company insures against loss or damage resulting from the enforcement of

the aforementioned Land Use Restriction Agreement, so long as Wellington Properties, LLC, or a “Related Entity” of Wellington Properties, LLC (as defined in the Land Use Restriction Agreement), does not acquire ownership interest in the insured land hereafter.

14. Easement for encroachments recorded in Book 7770, page 725, Durham County Registry.
15. Rights of tenants in possession, as tenants only, under unrecorded leases without rights or options to purchase.
16. Any right, easement, setback, interest, claim, encroachment, encumbrance, violation, variation, or other adverse circumstance affecting the Title regarding the following matters disclosed by survey entitled PRELIMINARY ALTA/NSPS Land Title Survey for Oak Creek Apartments, dated January 12, 2018, Job No. 2017\170273\ALTA 180103, prepared by Credle Engineering Company, Inc., William C. Credle, Reg. No. L-4277, last revised March __, 2018, including:
 - (a) Creek.
17. Rights of others in and to the continuous and uninterrupted flow of the waters bounding or crossing the Land and riparian and/or littoral rights incident to the Land.