

20070123000036400 1/6 \$36.00
Shelby Cnty Judge of Probate, AL
01/23/2007 04:21:40PM FILED/CERT

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

Liz Corrigan @ 205-458-5259

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Liz Corrigan
Burr & Forman LLP
3100 Wachovia Tower
420 North 20th Street
Birmingham, Alabama 35203**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

Hawthorn Place, LLC

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

1c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

2151 Old Rocky Ridge Road, Suite 100

Birmingham

AL

35216

USA

1d. SEE INSTRUCTIONS

ADD'L INFO RE
ORGANIZATION
DEBTOR

1e. TYPE OF ORGANIZATION

lim. liab. company

1f. JURISDICTION OF ORGANIZATION

Alabama

1g. ORGANIZATIONAL ID #, if any

☒ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

2c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

2d. SEE INSTRUCTIONS

ADD'L INFO RE
ORGANIZATION
DEBTOR

2e. TYPE OF ORGANIZATION

2f. JURISDICTION OF ORGANIZATION

2g. ORGANIZATIONAL ID #, if any

☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

3c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

One Chase Corporate Center, Suite 400

Birmingham

AL

35244

USA

4. This FINANCING STATEMENT covers the following collateral:

See Schedule A attached hereto for description of Collateral.

This financing statement is filed in connection with a Mortgage and Security Agreement being filed simultaneously herewith, on which the appropriate mortgage tax has been paid.

5. ALTERNATIVE DESIGNATION [if applicable] ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☒ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

Shelby County, Alabama



20070123000036400 2/6 \$36.00
Shelby Cnty Judge of Probate, AL
01/23/2007 04:21:40PM FILED/CERT

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a ORGANIZATION'S NAME			
OR	Hawthorn Place, LLC		
9b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX	

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a ORGANIZATION'S NAME				
OR				
11b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
11c MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
11d <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	11e TYPE OF ORGANIZATION	11f JURISDICTION OF ORGANIZATION	11g ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a ORGANIZATION'S NAME				
OR				
12b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
12c MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☒ fixture filing.

14. Description of real estate:

See Exhibit A attached hereto for description of real estate.

16. Additional collateral description:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

- ☐ Debtor is a TRANSMITTING UTILITY
☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years
☐ Filed in connection with a Public-Finance Transaction — effective 30 years

SCHEDULE "A" TO UCC FINANCING STATEMENT
(DESCRIPTION OF COLLATERAL)

"Collateral" means all of the assets of Borrower of every kind, nature and description, wherever located, whether now owned or hereafter acquired, including, but not limited to, the following: (A) the Mortgaged Property; (B) the Assigned Leases, the Construction Documents and the other Assigned Documents; (C) all amounts that may be owing from time to time by Bank to Borrower in any capacity, including, without limitation, any balance or share belonging to Borrower, of any Deposit Accounts or other account with Bank; (D) all of Borrower's assets which are or may be subject to Article 9 of the Uniform Commercial Code, together with all replacements therefor, additions and accessions thereto, and proceeds (including, but without limitation, insurance proceeds) and products thereof, including, without limitation, the following: Accounts; Chattel Paper; Commercial Tort Claims; Deposit Accounts; Documents; Equipment; General Intangibles; Instruments; Intellectual Property Rights; Inventory; Investment Property; Letter-of-Credit Rights; Payment Intangibles; Supporting Obligations; rights as seller of Goods and rights to returned or repossessed Goods; all existing and future leases and use agreements of personal property entered into by Borrower as lessor with other Persons as lessees, including without limitation the right to receive and collect all rentals and other monies, including security deposits, at any time payable under such leases and agreements; any existing and future leases and use agreements of personal property entered into by Borrower as lessee with other Persons as lessors, including without limitation the leasehold interest of Borrower in such property, and all options to purchase such property or to extend any such lease or agreement; Fixtures (including, but not limited to, all Fixtures now or hereafter located on the Mortgaged Property); all moneys of Borrower and all bank accounts, deposit accounts, lock boxes and other accounts in which such moneys may at any time be on deposit or held and all investments or securities in which such moneys may at any time be invested and all certificates, instruments and documents from time to time representing or evidencing any of the same; all claims of Borrower in any pending litigation and/or claims for any insurance proceeds; all Records pertaining to any of the Collateral; (E) any and all other assets of Borrower of any kind, nature, or description and which are intended to serve as collateral for the Loans under any one or more of the Security Documents; and (F) all interest, dividends, Proceeds, products, rents, royalties, issues and profits of any of the property described above, including, without limitation, all monies due and to become due with respect to such property, together with all rights to receive the same, and all notes, certificates of deposit, checks and other instruments and property from time to time delivered to or otherwise possessed by Bank for or on behalf of Borrower in substitution for or in addition to any of said property.

As used in this Schedule "A", "Borrower" shall mean the Debtor, and "Bank" shall mean the Secured Party; and all other capitalized words and phrases shall, except as otherwise defined below, have the meaning as set forth in that certain Credit Agreement (as amended from time to time, the "Credit Agreement") between Debtor and Secured Party, and in the case of any conflict between the meanings set forth below and the meanings set forth in the Credit Agreement, the broader meaning shall apply.

As used herein, unless the context clearly requires to the contrary, terms not specifically defined herein shall have the same respective meanings as are given to those terms in the Uniform Commercial Code as presently adopted and in effect in the State of Alabama (except in cases and

with respect to Collateral when the perfection, the effect of perfection or nonperfection, and the priority of a Lien in the Collateral is governed by another Jurisdiction, in which case such capitalized words and phrases shall have the meanings attributed to those terms under such other Jurisdiction).

As used herein:

"Assigned Documents" means (i) the Assigned Leases; (ii) the Construction Documents; (iii) any and all other agreements entered into by or for the benefit of Borrower with any developer, property manager, broker, or other Person with respect to the development, management, leasing, purchase, operation or use of the Project; (iv) any and all Governmental Approvals with respect to the Project; (v) any and all operating, service, supply, and maintenance contracts with respect to the Project; and (vi) any and all rights of Borrower under any of the foregoing, including, without limitation, any rights to receive any payments or other monies under any of the foregoing.

"Assigned Leases" means all leases presently existing or hereafter made, whether written or verbal, or any letting of, or agreement for the use or occupancy of, any part of the Mortgaged Property, and each modification, extension, renewal and guarantee thereof, including the Rents.

"Construction Documents" means the General Contractor's Contract, the Architect's Contract, the Engineer's Contract, the Plans and Specifications, any and all other agreements entered into by Borrower with any contractor, architect, engineer, or other Person and relating to the construction, use or occupancy of the Project.

"Mortgaged Property" means the "Mortgaged Property" as defined in the attached Schedule "A-1".

"Project" means an approximately 44,410 (rentable) square foot mixed-use development (office and retail), and related site improvements, to be constructed on the Land in accordance with the Plans and Specifications.

"Records" means correspondence, memoranda, tapes, discs, microfilm, microfiche, papers, books and other documents, or transcribed information of any type, whether expressed in ordinary or machine language, and all filing cabinets and other containers in which any of the foregoing is stored or maintained.

"Rents" means all the rents, issues, and profits now due and which may hereafter become due under or by virtue of the Assigned Leases, together with all claims and rights to the payment of money at any time arising in connection with any rejection or breach of any of the Assigned Leases under Bankruptcy Law, including without limitation, all rights to recover damages arising out of such breach or rejection, all rights to charges payable by a tenant or trustee in respect of the leased premises following the entry of an order for relief under Bankruptcy Law in respect of a tenant and all rentals and charges outstanding under the Assigned Leases as of the date of entry of such order for relief.

SCHEDULE "A-1" TO UCC FINANCING STATEMENT
(DESCRIPTION OF MORTGAGED PROPERTY)

"Mortgaged Property" means all of Borrower's Interest in the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances, whether now owned or hereafter acquired, and including replacements and additions thereto (herein referred to collectively as the "Mortgaged Property"):

(a) All those certain tracts, pieces or parcels of land, and interests in land, located in Shelby County, Alabama, more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Land");

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, vehicles and personal property of every kind and nature whatsoever now or hereafter owned by Borrower and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Mortgaged Property, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing, and all building materials and supplies of every kind now or hereafter placed or located on the Land (collectively the "Improvements");


(c) All easements, rights of way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Mortgaged Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower; and

(d) All rents, issues, profits, revenues and proceeds from any sale or other disposition of the Mortgaged Property, or any part thereof, from time to time accruing (including without limitation all payments under leases, ground leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits and escrow funds), and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same.

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Lot 1, according to the map and survey of Hawthorn Place, as recorded in Map Book 37, Page 89, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.


20070123000036400 6/6 \$36.00
Shelby Cnty Judge of Probate, AL
01/23/2007 04:21:40PM FILED/CERT