

# EXHIBIT 3

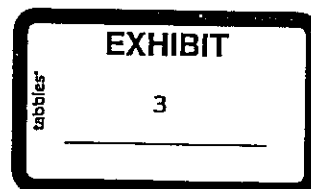
## AFFIDAVIT OF PETER HOLSTEN

Peter Holsten, first being sworn and having personal knowledge of the facts set forth herein, states as follows:

### Introduction and History

1. I am the president of Holsten Real Estate Development, and in this capacity have overall responsibility for the operation of all Holsten projects, including the Wilson Yard development. As explained further below, I am the managing member of the Wilson Yard Development I, LLC and Wilson Yard Retail I, LLC, both of which are named as defendants in the Fix Wilson Yard, Inc. v City of Chicago, 08 CH 45023 litigation (hereafter "the litigation"). I also serve as the president of Wilson Yard Development Corporation and Wilson Yard Senior Development Corporation, which are the general partners of Wilson Yard Partners, L.P. and Wilson Yard Senior Housing, L.P., respectively, all of which are named as defendants in the litigation. For purposes of this affidavit, I will refer to Holsten Development Corporation and the various Holsten entities identified in this paragraph as "Holsten Development". Holsten Development also serves as the turn-key developer for the owner of the Target store, the Target Wilson Yard QALICB, LLC, which is comprised of three entities: Banc of America CDE I, LLC, ESIC New Markets Partners XXXI Limited Partnership and New Markets Investment 38, LLC.

2. On June 27, 2001, the City of Chicago adopted an ordinance that designated a certain geographic area as the Wilson Yards TIF District and further adopted the Wilson Yards Redevelopment Plan for the entire TIF District. This ordinance and the Redevelopment Plan are Exhibit C to the Plaintiffs' complaint.



3. As a result of a competitive RFQ process, Holsten Development was selected as a developer for a mixed-use (commercial and residential) project, to be built between Wilson and Montrose Avenues and between Broadway and the L tracks, in a part of the Wilson Yards TIF District. For purposes of this affidavit, I will call our project "the Holsten Wilson Yard project". During 2003-2005, we spent a considerable amount of time, energy and money on planning a development for this site.

4. As a result of this process, we developed zoning and land use proposals that were ultimately approved on September 14, 2005 by the city zoning and planning authorities. Also on September 14, 2005, the City authorized the execution of a Redevelopment Agreement with Holsten, under which we agreed to finance and build the Holsten Wilson Yard project within the Wilson Yard TIF District, and the City agreed to provide certain assistance, including TIF funds. A copy of the original Redevelopment Agreement is Exhibit A to the complaint. We executed this Redevelopment Agreement on November 30, 2005. Three Amendments to that Redevelopment Agreement have been approved by the City Council. The City has never amended the original 2001 Wilson Yard Redevelopment Plan.

5. Immediately after the closing on our original Redevelopment Agreement on November 30, 2005, Holsten began construction on the site. That construction continues at the present time. To understand what has been finished and what is now under construction requires a general description of the Holsten Wilson Yard project.

#### **The Holsten Wilson Yard Project**

6. The Holsten Wilson Yard site is approximately 5.7 acres located in Chicago's Uptown community (46th Ward), bounded on the east side by Broadway, on the west by the CTA Red Line tracks, and by Wilson on the north and Montrose on the south. This is a small part of the

entire Wilson Yard TIF District. A significant portion of the Holsten Wilson Yard project site was owned by the Chicago Transit Authority. A fire destroyed a previously existing CTA repair shop in 1996, and this portion of the overall site remained vacant and undeveloped until approximately 2004. A poorly designed and sited Aldi grocery store, parking and a functionally obsolete one-story retail strip, comprised the remainder of the original site.

7. The current Holsten Wilson Yard project consists of five components: (1) a new one-story Aldi grocery store (completed and open for business since May 2007), with approximately 16,000 s.f. and 60 surface parking spaces; (2) a Target store of just over 203,000 s.f. on two stories, along with a 134,000 s.f. dedicated underground garage that accommodates 380 parking spaces; (3) additional smaller retail space, approximately 25,000 s.f., located at grade below one of the housing buildings (to include a Chipotle restaurant, Subway, AT&T wireless store and other retail stores), along with 105 surface parking spaces; (4) a seven-story, affordable residential building, comprised of 80 – one, two and three bedroom apartments. An attached parking deck with 119 spaces will be shared with the senior housing development; (5) a seven-story, affordable senior building, comprised of 98 – one bedroom apartments – and shared parking deck, as described above.

8. In support of these developments, public road and infrastructure improvements to the site will include approximately 480 linear feet of road which extends Sunnyside into the site from west to east. A temporary traffic signal has already been added at Sunnyside and Broadway. A permanent signal will be installed as part of a CDOT streetscaping project, work which has been coordinated with the overall Holsten Wilson Yard project construction schedule.

9. To date, the entire site has been acquired, existing structures have been demolished, all site and hazardous environmental work has been completed, the Aldi store and its

accompanying parking are complete. To date, Holsten Development has paid or incurred costs in the amount of \$67,574,565.65 in order to accomplish this acquisition, financing and construction. All other components of the Holsten Wilson Yard project are currently under construction. The Target, Senior Building, Family Building and Retail are components of one large structure, and therefore are being constructed at the same time. Due to the design and engineering of the structure, all of these components share vertical and horizontal supporting members. For example, the Family, Senior and Retail all sit above Target's below-grade parking garage. Vertical supports (caissons, columns, foundation walls) for the Family, Senior and Retail are within the parking garage and are built as the garage is constructed. Walls, beams and columns provide shared support in the same fashion throughout the structure, and no single component (Target, Family, Senior or Retail) can be constructed independently of the others.

10. At present, the excavation of the underground parking garage for the buildings is complete. Two-hundred twelve of the two-hundred fifty caissons that support the buildings have been sunk and fixed in the ground. Installation of sheeting was completed last month. Concrete walls, footings and columns are now being poured for the two residential buildings at the southern end of the site. This work will continue over the next two months, moving from the south end of the site to the north end. Later this month, we will begin pouring the concrete footings and foundation walls for the Target store. Presently, 500-plus tons of rebar and more than 1,000 cubic yards of concrete are in place. Walsh Construction, which is building the project, has a construction work force of over 100 working on the job, along with six cranes and a sizable collection of other heavy equipment. By March 1, 2009, enough footings and foundations will have been poured to complete the first floor decks of the two residential buildings. The entire project will, on March 1, 2009, be 42% complete, and we will have paid or

incurred \$40 million under the construction contract alone. By the end of March, 2009, the first floor deck of the Target will be complete and all structural steel should be installed by the beginning of May.

#### **The Holsten Wilson Yard Project Financial Summary**

11. The cost of the Holsten Development Wilson Yard project is \$150 million, as reflected on the attached Exhibit A. Along with TIF notes and cash committed by the City, there are a number of other financial sources contributing to the Wilson Yard project. In addition to these permanent sources of funds, Bank of America has committed nearly \$31 million in additional construction and bridge financing for the senior and family residential developments. These funds will bridge the permanent sources reflected in Exhibit A and will be repaid at construction completion from capital contributions and proceeds of the Dougherty TIF loan. I have personally guaranteed repayment of all loans on the project, which total at least \$70 million. I have also guaranteed the delivery of tax credit benefits to our investors, as well as construction completion of the entire project to our lenders and partners.

#### **Financial Consequences To Holsten Development Of A Construction Stoppage**

12. If construction work on the site is stopped for any duration, the contractor will demobilize the construction at the site. When construction is re-started, the contractor will have to remobilize his work force (including subcontractors), as well as equipment and material suppliers. The cost of both demobilization and remobilization is estimated to be in the range of \$500,000 to \$1 million.

13. If construction is stopped for any duration, under the terms of its construction contract, the contractor will pass on to the owner increased construction costs caused by delay in the contractor's progress of construction. While the cost of these delay damages cannot at this

point be definitively calculated, we have been advised by our contractor that in order to meet the construction completion schedule required by the lenders, these damages will exceed \$50,000 per day (exclusive of increases in material costs) .

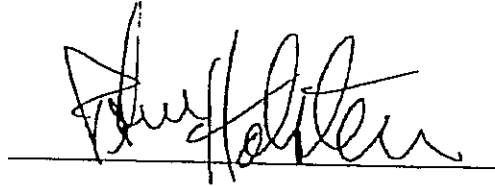
14. If the owners are enjoined from proceeding with the development of the site for 15 consecutive days or more, or if the construction of the development is delayed for 20 days or more, each of the construction lenders can declare a default under their loan agreements. These lenders include the Bank of America, Dougherty & Co. and the City of Chicago. Additionally, there would be cessation of disbursements by the construction lenders, leading to further defaults in our obligations to our construction contractor, which in turn would constitute additional defaults under the loan documents and ultimately increase the cost of the development. The lenders in such a case could accelerate their loans, declare them to be due and the construction financing would cease. Consequently, the lender would have the right to foreclose and sue me and the guarantors individually.

15. The limited partners, upon a default under the partnership agreement will have the right to sue on the guarantees from me and our other guarantors, remove the general partner and substitute a new one, or sue to rescind their investment and call for a full repayment of all of the equity contributed plus their damages. The equity alone, exclusive of penalties, is nearly \$27.5 million.

16. In these economic times, it is extraordinarily difficult to finance a large mixed-use project of this type. A delay in construction would make this difficult challenge virtually impossible, given the increased costs that would occur and the difficulties it would present in meeting our loan and other financial obligations.

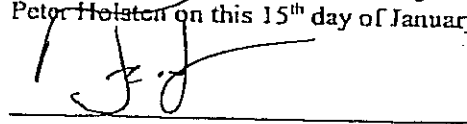
17. Apart from the financial difficulties I and my company would face, a delay in this

project would do a substantial disservice to the Uptown community. I have attended countless community meetings since 2003, when we began this project. The overwhelming majority of community residents and business owners wholeheartedly support the commercial and residential development that we have proposed and are building.

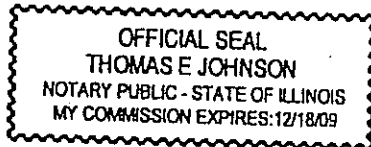


Peter Holsten

Signed and subscribed before me by  
Peter Holsten on this 15<sup>th</sup> day of January, 2009



Notary Public





# EXHIBIT A

# Exhibit A

## Wilson Yard Financial Summary

Development Uses	Target	Small Retail	Public	Senior	Aldi	Master Developer	TOTAL
Acquisition	\$5,675,000		\$2,195,000	\$980,724		\$5,685,306	\$15,444,030
Costs Under the BSDA	\$825,000						
Hard Costs-Walsh	\$36,270,703	\$1,702,388	\$24,874,554	\$23,332,516			\$86,180,141
Hard Costs-Other					\$4,105,216	\$6,035,347	\$10,140,563
Soft Costs	\$6,740,420	\$3,597,632	\$4,180,369	\$3,830,000	\$751,893	\$6,716,503	\$25,816,617
Int. Reserve (const. period)			\$1,041,849	\$1,425,802			\$2,467,651
Total Contingency	\$876,005	\$150,000	\$980,653	\$994,054		\$412,540	\$3,422,252
Additional Contingency-QALICB	\$881,400						\$881,400
Developer Fee (Hedline Fund Fee)	\$500,000	\$0	\$2,132,017	\$1,763,790	\$850,000	\$0	\$5,045,807
TOTAL	\$52,768,528	\$5,450,000	\$35,413,442	\$32,334,886	\$5,506,909	\$10,749,899	\$150,223,461
Sources							
First Mortgage - IHDA			\$2,750,000				\$2,750,000
First Mortgage - BOA				\$1,510,267			\$1,510,267
First Mortgage - BOA		\$5,450,000					\$5,450,000
Aldi Contribution					\$3,200,000		\$3,200,000
GP Loan - FHLB			\$600,000	\$600,000			\$1,200,000
DOH Home				\$6,500,000			\$6,500,000
LMTC Equity			\$16,205,155	\$11,286,187			\$27,491,342
Leveraged Loan - Target	\$20,066,000						\$20,066,000
Target Equity	\$10,381,997						\$10,381,997
Bank Loan - BOA CDE	\$4,991,000						\$4,991,000
NMTC Equity - LISC/ESIC	\$4,381,400						\$4,381,400
NMTC Equity - BOA CDE	\$5,009,000						\$5,009,000
Housing Acquisition Reimb.						\$2,330,563	\$2,330,563
TIF NOTES	\$2,278,141		\$14,250,916	\$11,649,226		\$11,882,817	\$40,171,109
TIF CASH	\$5,660,990				\$2,300,908	\$2,426,218	\$10,394,115
Other MD Loan			\$853,161				\$853,161
TIF- PAY AS YOU GO						\$500,000	\$500,000
Environmental Reimb-CTA						\$750,000	\$750,000
Manu/Alderman Funds						\$750,000	\$750,000
Deferred Developer Fee	\$0	\$0	\$754,210	\$789,207	\$0	\$0	\$1,543,417
TOTAL	\$52,768,528	\$5,450,000	\$35,413,442	\$32,334,886	\$5,506,909	\$10,749,899	\$150,223,461

