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2001-07-06 10:43:22

Cook County Recorder

35.00

THIS INSTRUMENT WAS PREPARED BY AND AFTER RECORDING SHOULD BE RETURNED TO:

Ned S. Robertson, Esq.
Aronberg Goldgehn Davis & Garmisa
One IBM Plaza
Suite 3000
Chicago, Illinois 60611
(312) 755-3140



PROPERTY ADDRESS:

1800 McDermough Road
Hoffman Estates, Illinois

TAX IDENTIFICATION NUMBER:
06-09-200-016-0000
06-09-200-018-0000

(This space for Recorder's Use Only)

ASSIGNMENT OF LEASES AND RENTS

KNOW ALL MEN BY THESE PRESENTS, that HOFFMAN ESTATES DEVELOPMENT VENTURE LIMITED PARTNERSHIP, an Illinois limited partnership ("HEDVLP"), and HOFFMAN ESTATES DEVELOPMENT VENTURE, INC., an Illinois corporation ("HEDVI") (HEDVLP and HEDVI are hereafter sometimes collectively referred to as "Assignor"), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, does hereby assign, transfer and set over unto COLE TAYLOR BANK, an Illinois banking association, and its successors and assigns ("Mortgagee"), all right, title and interest of Assignor in, under or pursuant to any and all present or future leases, whether written or oral, or any lettings of possession of, or any agreements for the use or occupancy of, the whole or any part of the real estate and premises hereinafter described which Assignor may have heretofore made or agreed to or may hereafter make or agree to, or which may be made or agreed to by Mortgagee under the powers hereinafter granted, including all amendments and supplements to and renewals thereof at any time made (hereinafter a "Lease", or, collectively, the "Leases"), all relating to that certain real estate situated in the County of Cook, State of Illinois, described in Exhibit A attached hereto and made a part hereof which is owned by HEDVI and the improvements now or hereafter erected thereon which are owned by HEDVLP (collectively, the "Premises"), including, without limiting the generality of the foregoing, all right, title and interest of Assignor in and to all the rents (whether fixed or contingent), earnings, renewal rents and all other sums due or which may hereafter become due under or by virtue of the Leases and all rights under or against guarantors of the obligations of tenants under the Leases.

This Assignment is made and given as collateral security for, and shall secure (i) the payment in full of all principal of and interest on a Promissory Note made by Assignor of even

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date herewith payable to the order of Mortgagee in the principal amount of Five Million One Hundred Thousand and No/100 Dollars (\$5,100,000.00) and any note issued in extension or renewal thereof or in substitution therefor (said Promissory Note and any and all extensions and renewals thereof, amendments thereto and substitutions or replacements therefor is referred to herein as the "Note"); (ii) the performance of all obligations, covenants, promises and agreements contained herein, in that certain Loan and Security Agreement of even date herewith executed by Assignor and Mortgagee (said Loan and Security Agreement, as the same may from time to time be amended, is hereinafter referred to as the "Loan Agreement"), and in that certain Mortgage, Assignment of Rents and Security Agreement of even date herewith executed by Assignor in favor of Mortgagee (said Mortgage, as the same may from time to time be amended, is hereinafter referred to as the "Mortgage"), conveying and mortgaging the Premises as security for the Note and any and all other indebtedness intended to be secured thereby; and (iii) the payment of all expenses and charges, legal or otherwise, paid or incurred by Mortgagee in realizing upon or protecting the indebtedness referred to in the foregoing clauses (i), (ii), and (iii) or any security therefor, including this Assignment.

Upon the occurrence of an Event of Default under the Loan Agreement or the Mortgage, Assignor does hereby irrevocably authorize and empower Mortgagee to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all sums due or to become due under any Lease, with full power to settle, adjust or compromise any claim thereunder as fully as Assignor could do, and to endorse the name of Assignor on all commercial paper given in payment or in part payment thereof, and in Mortgagee's discretion to file any claim or take any other action or proceeding, either in Mortgagee's name or in the name of Assignor or either of them, or otherwise, which Mortgagee may deem necessary or appropriate to collect any and all sums due or to become due under any Lease, or which may be necessary or appropriate to protect and preserve the right, title and interest of Mortgagee in and to such sums and the security intended to be afforded hereby.

Assignor warrants to Mortgagee that Assignor has good right to make this Assignment and that Assignor has not heretofore alienated, assigned, pledged or otherwise disposed of any of the rights, rents and other sums due or which may hereafter become due and which are intended to be assigned hereunder.

Notwithstanding the foregoing provisions making and establishing a present and absolute transfer and assignment of all rents, earnings, income, issues and profits as aforesaid, and so long as no Event of Default shall exist under any of the Note, the Loan Agreement or the Mortgage and no event shall exist which if uncured within any applicable cure period, has or would become an Event of Default thereunder, Assignor shall have the right and license to collect, use and enjoy all rents and other sums due or to become due under and by virtue of any Lease as they respectively become due, but not more than thirty (30) days in advance.

Assignor hereby irrevocably consents to and authorizes and directs that the tenant under any Lease upon demand and notice from Mortgagee of Mortgagee's right to receive the rents hereunder, shall pay such rents to Mortgagee without any obligation on the part of such tenant to determine the actual existence of any Event of Default or event claimed by Mortgagee as the basis

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for Mortgagee's right to receive such rents and notwithstanding any notice from or claim of Assignor to the contrary. Assignor hereby waives every right or claim against any tenant for any such rents paid by tenant to Mortgagee.

Without limiting any legal rights of Mortgagee as the absolute assignee of the rents, issues and profits of the Premises and in furtherance thereof, Assignor agrees that upon the occurrence of an Event of Default under the Loan Agreement or the Mortgage, whether before or after the Note is declared due in accordance with its terms or under the terms of the Loan Agreement or the Mortgage, Mortgagee may, at its option, take actual possession of the Premises hereinabove described, or of any part thereof, personally or by agent or attorney, as for condition broken, and with or without force and with or without process of law, enter upon, take, and maintain possession of all or any part of said Premises together with all documents, books, records, papers and accounts relating thereto, and exclude Assignor, their agents or servants, therefrom and hold, operate, manage and control the Premises, and at the expense of Assignor, from time to time, cause to be made all necessary or proper repairs, renewals, replacements, useful alterations, additions, betterments and improvements to the Premises as may seem judicious, and pay taxes, assessments and prior or proper charges on the Premises, or any part thereof, and insure and reinsure the same, and lease the Premises in such parcels and for such times and on such terms as Mortgagee may deem proper, including Leases for terms expiring beyond the maturity of the indebtedness secured by said Mortgage, and cancel any Lease or sub-lease for any cause or on any ground which would entitle Assignor to cancel the same and in every such case have the right to manage and operate the said Premises and to carry on the business thereof as Mortgagee shall deem best.

After payment of all proper charges and expenses, including the just and reasonable compensation for the services of Mortgagee, its attorneys, agents, clerks, servants and others employed by the Mortgagee in connection with the operation, management and control of the Premises and the conduct of the business thereof, and such further sums as may be sufficient to indemnify Mortgagee against any liability, loss or damage on account of any matter or thing done in good faith in pursuance of the rights and powers of Mortgagee hereunder, Mortgagee may, at its option, credit the net amount of income which Mortgagee may receive by virtue of this Assignment and from the Premises to any and all amounts due or owing to Mortgagee under the terms and provisions of the Note, the Loan Agreement, the Mortgage, and any loan or security agreement pertaining thereto, whether or not the same may then be due or be otherwise adequately secured. Mortgagee shall have the right, but not the duty, to apply such net income to the discharge of any other lien or charge upon the Premises or to complete any improvements financed by the proceeds of the Note. The manner of the application of such net income and the item which shall be credited shall be within the sole discretion of Mortgagee. Mortgagee shall be subrogated to any lien or charge discharged out of the rents, income and profits of the Premises.

Assignor hereby further covenants that Assignor will, upon request of Mortgagee, execute and deliver such further instruments and do and perform such other acts and things as Mortgagee may reasonably deem necessary or appropriate to more effectively vest in and secure to Mortgagee the rights and rents which are intended to be assigned to Mortgagee hereunder.

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Assignor covenants and agrees to observe and perform all of the obligations imposed on it under the Leases and not to do or permit to be done anything to impair the security thereof, not to execute any commercial Lease without Mortgagee's prior written approval, which will not be unreasonably withheld, not to further assign or encumber their rights under the Leases or their rights to the rents or other sums due or to become due thereunder, not to accept rent more than one month in advance, and not suffer or permit any of the Leases to be subordinated to any other liens or encumbrances whatsoever, any such subordination to be null and void unless done with the written consent of Mortgagee. Assignor further covenants and agrees not to materially amend, modify or terminate any of the Leases without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, and, at the request of Mortgagee, to submit the executed originals of all Leases to Mortgagee. Notwithstanding the foregoing, Assignor may extend any current leases upon commercially reasonable terms without Mortgagee's consent.

The acceptance by Mortgagee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking of actual physical possession of the Premises by Mortgagee, be deemed or construed to constitute Mortgagee a mortgagee in possession nor thereafter impose any obligation whatsoever upon Mortgagee, it being understood and agreed that Mortgagee does not hereby undertake to perform or discharge any obligation, duty or liability of the landlord under any Leases of the Premises or under or by reason of this Assignment. Mortgagee shall have no liability to Assignor or anyone for any action taken or omitted to be taken by it hereunder, except for its willful misconduct or gross negligence. Should Mortgagee incur any liability, loss or damage under or by reason of this Assignment or for any action taken by Mortgagee hereunder, or in defense against any claim or demand whatsoever which may be asserted against Mortgagee arising out of any Lease, where such loss or damage was not the direct result of Mortgagee's willful misconduct or gross negligence, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the Default Interest Rate (as such term is defined in the Note) shall be secured by this Assignment and by the Loan Agreement and the Mortgage, and Assignor shall reimburse Mortgagee therefor immediately upon demand.

The rights and remedies of Mortgagee hereunder are cumulative and are not in lieu of, but are in addition to, any rights or remedies which Mortgagee shall have under the said Note, Mortgage or any other instrument or document or under applicable law and the exercise by Mortgagee of any rights and remedies herein contained shall not be deemed a waiver of any other rights or remedies of Mortgagee, whether arising under the Loan Agreement, the Mortgage or otherwise, each and all of which may be exercised whenever Mortgagee deems it in its interest to do so. The rights and remedies of Mortgagee may be exercised from time to time and as often as such exercise is deemed expedient and the failure of Mortgagee to enforce any of the terms, provisions and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any rights under the terms hereof. The right of Mortgagee to collect and receive the rents assigned hereunder or to exercise any of the rights or powers herein granted to Mortgagee shall, to the extent not prohibited by law, extend also to the period from and after the filing of any suit to foreclose the lien of the Mortgage, including any period allowed by law for the redemption of the Premises after any foreclosure sale.

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This Assignment shall be assignable by Mortgagee and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective executors, administrators, legal representatives, successors and assigns of each of the parties hereto.

NEXT PAGE IS SIGNATURE PAGE

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IN WITNESS WHEREOF, the undersigned has executed this Assignment as of the
27th _____ day of June, 2001.

HOFFMAN ESTATES DEVELOPMENT
VENTURE LIMITED PARTNERSHIP, an
Illinois limited partnership

By: HOFFMAN ESTATES
DEVELOPMENT VENTURE, INC., an
Illinois corporation, General Partner

By: Anthony D. Ivankovich
Name: Anthony D. Ivankovich
Title: President

HOFFMAN ESTATES DEVELOPMENT
VENTURE, INC., an Illinois corporation

By: Anthony D. Ivankovich
Name: Anthony D. Ivankovich
Title: President

Property of Cook County Clerk's Office

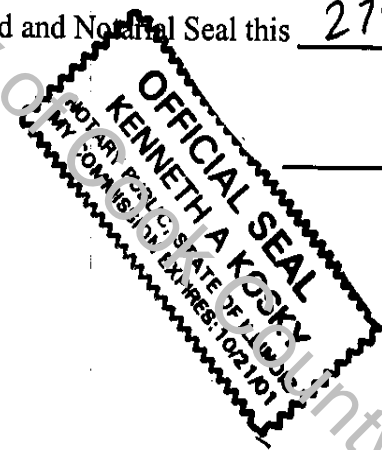
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STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Anthony D. Ivankovich, President of HOFFMAN ESTATES DEVELOPMENT VENTURE, INC., an Illinois corporation, personally known to me to be the General Partner of HOFFMAN ESTATES DEVELOPMENT VENTURE, LIMITED PARTNERSHIP, an Illinois limited partnership, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as President of HOFFMAN ESTATES DEVELOPMENT VENTURE, INC., being the General Partner of such limited partnership, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of the General Partner of said limited partnership, for the uses and purposes therein set forth and pursuant to such partnership's authority.

GIVEN under my hand and Notarial Seal this 27th day of June, 2001.



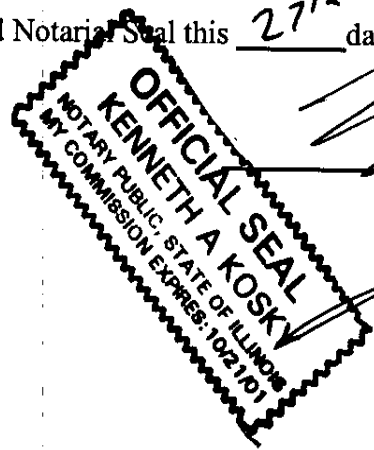


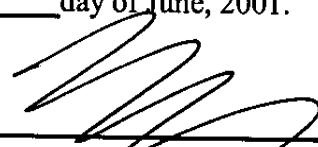
Notary Public

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Anthony D. Ivankovich personally known to me to be the President of HOFFMAN ESTATES DEVELOPMENT VENTURE, INC., an Illinois corporation, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such President of such corporation, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth and pursuant to such corporation's authority.

GIVEN under my hand and Notarial Seal this 27th day of June, 2001.





Notary Public

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EXHIBIT A

Legal Description

Part of the Northwest Quarter and the Northeast Quarter of Section 9, Township 41 North, Range 9, East of the Third Principal Meridian described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence South 50 degrees 00 minutes 28 seconds West, along the Easterly line of lands conveyed by Document No. 15722947, a distance of 77.00 feet to the point of beginning; thence South 89 degrees 30 minutes 04 seconds East, along a line parallel with, and 50 feet Southerly of as measured perpendicular to, the North line of said Northeast Quarter, part of said parallel line lying within said Northeast Quarter being the Southerly right of way line of Shoe Factory Road as found in Document No. 16052039, a distance of 199.99 feet to the Westerly line of the Estates of Deer Crossing, Unit One, recorded February 24, 1993 as Document No. 93-143139; thence South 00 degrees 29 minutes 56 seconds West, along said Westerly line a distance of 501.00 feet; thence South 62 degrees 50 minutes 18 seconds West, a distance of 163.71 feet; thence North 00 degrees 29 minutes 56 seconds East, a distance of 30.00 feet; thence North 89 degrees 30 minutes 04 seconds West, a distance of 90.00 feet; thence North 00 degrees 29 minutes 56 seconds East, a distance of 125.50 feet; thence North 89 degrees 30 minutes 04 seconds West, a distance of 202.46 feet; thence North 00 degrees 29 minutes 56 seconds East, a distance of 218.75 feet to said Easterly line described in Document No. 15722947; thence North 50 degrees 00 minutes 28 seconds East, along said Easterly line, a distance of 312.25 feet to the point of beginning in Cook County, Illinois.

Clerk's Office

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