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2001-07-16 12:47:41
Cook County Recorder 31.00

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING, RETURN
TO::

F. Kevin Murnighan
Carey, Filter, White & Boland
33 West Jackson Boulevard
Chicago, Illinois 60604



June 26, 2001

ASSIGNMENT OF RENTS AND LEASES

WHEREAS, THE FRED & BARBARA FUCHS FAMILY LIMITED PARTNERSHIP (the "Assignor") in order to secure a principal indebtedness of One Million Two Hundred Seventy Thousand and no/100 Dollars (\$1,270,000.00) evidenced by a certain Note of Assignor of even date herewith (together with any and all amendments, modifications, renewals, extensions, restatements and substitutions thereof and therefore) (the "Note"), has executed a Mortgage of even date herewith, mortgaging to WESTBANK (the "Mortgagee"), with an office at 2225 S. Wolf Road, Hillside, IL 60162, property and improvements in the County of Cook, Illinois, described in Exhibit A attached hereto and incorporated by reference herein ("the Mortgaged Premises") and commonly known as:

23 W. North Avenue, Northlake, Illinois

PIN: 15-06-217-005

AND WHEREAS, said Mortgagee is the Holder of said Mortgage and the Note secured thereby:

NOW THEREFORE, in order to further secure said indebtedness, and as a part of the consideration of said transaction, the Assignor hereby assigns, transfers and sets over unto said Mortgagee, its successors and assigns, all of the rents now due or which may hereafter become due under or by virtue of any lease, either oral or written, or any letting of, or any agreement for the use and occupancy of all or any part of the Mortgaged Premises herein described, which may have been heretofore or may hereafter be made or agreed to by the Assignor, or which may be made or agreed to by the Mortgagee under the powers granted to it in this instrument, it being the intention hereby to establish an absolute transfer and assignment of all such leases and agreements and all the avails thereunder including, without limitation, any and all guaranties of tenants' performance under the leases unto the Mortgagee.

The undersigned Assignor covenants and agrees with Mortgagee as follows:

- a) That the sole ownership of the entire landlord's interest in the Leases is vested in Assignor. Assignor has not and shall not (i) perform any act or execute any other instrument which might prevent Mortgagee from fully exercising its rights under this Assignment, (ii) execute any

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further assignment or pledge of the rents, income, profits or any of the Leases, (iii) accept payment of any installment of rent more than thirty (30) days before the due date thereof, or (iv) make any lease of the Mortgaged Premises except for actual occupancy by the tenant thereunder;

b) That each lease, whether oral or written, is valid and enforceable in accordance with its terms, and none has been or will be altered, modified, amended, terminated, canceled, renewed or surrendered except in accordance with the terms thereof nor has any term or condition thereof been waived in any manner whatsoever, without the prior written approval of the Mortgagee;

c) That there is no material default now existing under any of the Leases and there exists no state of fact which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases; that Assignor will fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be kept and performed, and, at the sole cost and expense of Assignor, enforce the performance and observance of each and every covenant and condition of all such Leases by the tenants thereunder to be kept and performed;

d) That Assignor shall give prompt notice to Mortgagee of each notice received by Assignor claiming that a default has occurred under any of the Leases on the part of the landlord, together with a complete copy of each such notice;

e) That each of the Leases shall be deemed to remain in full force and effect regardless of any merger of the interest of any landlord and any tenant under any of the Leases; and

f) That, without Mortgagee's prior written consent, Assignor will not suffer or permit any of the Leases to become subordinate to any lien other than the lien of the Mortgage, this Assignment and general real estate taxes not delinquent.

g) That Assignor does hereby irrevocably authorize the said Mortgagee to manage the Mortgaged Premises, and further authorizes the said Mortgagee to let and re-let the Mortgaged Premises or any part thereof, according to its own discretion, and to bring or defend any suits in connection with said premises in its own name or in the name of the Assignor, as it may deem expedient, and to make such repairs to the Mortgaged Premises as it may deem proper or advisable, and to do anything in and about the Mortgaged Premises that the Assignor might do, hereby ratifying and confirming anything and everything that the said Mortgagee may do.

It is understood and agreed that the said Mortgagee shall have the power to use and apply said avails, issues and profits toward the payment of any present or future indebtedness or liability of the Assignor to the said Mortgagee, due or to become due, or that may hereafter be contracted, and also toward the payment of all expenses for the care and management of the Mortgaged Premises, including taxes, insurance, assessments, usual and customary commissions to a real estate broker for leasing the Mortgaged Premises and collecting rents and the expense for such attorneys, agents and servants as may reasonably be necessary.

It is further understood and agreed that in the event of the exercise of Mortgagee's rights

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granted pursuant to this assignment, the Assignor will, upon the demand of the Mortgagee, either surrender to Mortgagee possession of the Mortgaged Premises or pay rent for the portion of the Mortgaged Premises occupied by the Assignor at the prevailing rate per month for each square foot occupied. Failure on the part of the Assignor to promptly surrender possession or pay said rent on the first day of each and every month shall, in and of itself, constitute a forcible entry and detainer and the said Mortgagee may in its own name institute an action of forcible entry and detainer and obtain possession of the Mortgaged Premises.

This assignment shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto and shall be construed as a Covenant Running With the Land, and shall continue in full force and effect until all of the indebtedness and liability of the Assignor to the said Mortgagee shall have been fully paid, at which time this assignment and authority shall terminate.

It is understood and agreed that the Mortgagee will not exercise its rights under this assignment until after and during the continuation of a default in any payment secured by the Mortgage or after and during the continuation of a breach of any of its covenants and, in either case, expiration of applicable notice and cure periods. The failure of the said Mortgagee to exercise any right which it might exercise hereunder shall not be deemed a waiver by the said Mortgagee of its right of exercise thereafter.

The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to discharge any obligation, duty or liability under any leases, nor shall this Assignment operate to place upon Mortgagee responsibility for the control, care, management or repair of the Mortgaged Premises or the carrying out of any of the terms and conditions of any leases; nor shall it operate to make the Mortgagee responsible or liable for any waste committed on the Mortgaged Premises by the lessee under any lease or any other party, or for any dangerous or defective condition of the Mortgaged Premises, or for any negligence in the management, upkeep, repair or control of the Mortgaged Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

The Assignor shall and does agree to indemnify and to hold Mortgagee harmless of and from any and all liability, loss, cost, damage or expense which it may incur under any lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it (except if caused by the gross negligence or willful misconduct of Mortgagee) by reason of any alleged obligations or undertakings on the part of Mortgagee to perform or discharge any of the terms or covenants set forth in any leases. Should the Mortgagee incur any such liability, loss, cost, damage or expense under any leases or under or by reason of this Assignment, or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Assignor shall reimburse the Mortgagee therefor immediately upon demand.

Notwithstanding any prior revocation, termination, surrender or discharge of this Agreement, the effectiveness of this Agreement shall automatically continue or be reinstated, as the case may be, in the event that (a) any payment received or credit given by the Mortgagee in respect of the

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Indebtedness is returned, disgorged or rescinded as a preference, impermissible setoff, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable state or federal law, including, without limitation, laws pertaining to bankruptcy or insolvency, in which case this Agreement shall be enforceable against Assignor as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not the Mortgagee relied upon this payment or credit or changed its position as a consequence of it; or (b) any liability is imposed, or sought to be imposed, against the Mortgagee relating to the environmental condition of, or the presence of hazardous or toxic substances on, in or about, any property given as collateral to the Mortgagee whether this condition is known or unknown, now exists or subsequently arises (excluding only conditions which arise after any acquisition by the Mortgagee of any such property, by foreclosure, in lieu of foreclosure or otherwise, to the extent due to the wrongful act or omission of the Mortgagee), in which case this Agreement shall be enforceable to the extent of all liability, costs and expenses (including without limit reasonable attorney fees) incurred by the Mortgagee as the direct or indirect result of any environmental condition or Hazardous Materials. In the event of continuation or reinstatement of this Agreement, Assignor agrees upon demand by the Mortgagee to execute and deliver to the Mortgagee those documents which the Mortgagee determines are appropriate to further (in the public records or otherwise) this continuation or reinstatement, although the failure of Assignor to do so shall not affect in any way the reinstatement or continuation. If Assignor does not execute and deliver to the Mortgagee upon demand such documents, the Mortgagee is irrevocably appointed (which appointment is coupled with an interest) the true and lawful attorney of Assignor (with full power of substitution) to execute and deliver such documents in the name and on behalf of Assignor.

In the event any lessee under the Leases should be the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state, or local statute which provides for the possible termination or rejection of the Leases assigned hereby, the Mortgagor covenants and agrees that if any of the Leases is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Mortgagee, and any check in payment of damages for termination or rejection of any such Lease shall be made payable both to Mortgagor and Mortgagee. The Mortgagor hereby assigns any such payment to Mortgagee and further covenants and agrees that upon the request of Mortgagee, it shall duly endorse to the order of Mortgagee any such check, the proceeds of which shall be applied to whatever portion of the indebtedness secured by this Assignment Mortgagee may elect.

IN WITNESS WHEREOF, Assignor has executed this instrument the day and year first above written.

THE FRED & BARBARA FUCHS FAMILY LIMITED PARTNERSHIP

By: Frederick A. Fuchs
General Partner

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STATE OF Cal.)
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COUNTY OF Marin)) SS

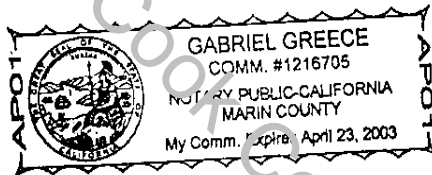
I, Gabriel Greece, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Frederick A. Fuchs, personally known to me to be the general partner of THE FRED & BARBARA FUCHS FAMILY LIMITED PARTNERSHIP, a California limited partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such authorized representative of said entity pursuant to authority given by said entity, as his free and voluntary act and as the free and voluntary act of said entity, for the uses and purposes therein set forth. GIVEN under my hand and official seal this 22 day of June, 2001.

My commission expires:

4/23/03



Notary Public



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EXHIBIT A TO THAT CERTAIN ASSIGNMENT OF RENTS AND LEASES DATED JUNE 26, 2001 BY AND BETWEEN FRED & BARBARA FUCHS FAMILY LIMITED PARTNERSHIP AS ASSIGNOR, AND WESTBANK, AS MORTGAGEE

LEGAL DESCRIPTION

PARCEL 1:

LOT 6 IN NORTHLAKE COMMONS SHOPPING CENTER, A SUBDIVISION OF PART OF THE H.O. STONE NORTHLAKE ADDITION BEING A SUBDIVISION OF THAT PART OF THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND RECORDED JULY 3, 1930 AS DOCUMENT 10697148 IN COOK COUNTY, ILLINOIS, WHICH RESUBDIVISION PLAT WAS RECORDED ON DECEMBER 21, 1995 AS DOCUMENT 95889918, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS CREATED BY RECIPROCAL EASEMENT AND OPERATION AGREEMENT ENTERED INTO BY NORTHLAKE DEVELOPMENT COMPANY OFFICE DEPOT, INC., SERVICE MERCHANDISE COMPANY, AND PETSMART INC., DATED JUNE 14, 1995 AND RECORDED OCTOBER 10, 1995 AS DOCUMENT 95687795 OVER AND ACROSS THE LAND DESCRIBED THEREIN.

PARCEL 3:

EASEMENT FOR INGRESS AND EGRESS CREATED BY RECIPROCAL EASEMENT AGREEMENT BETWEEN WALMART STORES INC., AND NORTHLAKE DEVELOPMENT COMPANY DATED MAY 26, 1995 AND RECORDED AS DOCUMENT 95548027 OVER AND ACROSS THE LAND DESCRIBED THEREIN.

PARCEL 4:

EASEMENT FOR INGRESS AND EGRESS CREATED BY EASEMENT GRANT FROM THE CITY OF NORTHLAKE TO NORTHLAKE DEVELOPMENT COMPANY, ITS SUCCESSORS AND ASSIGNS, DATED MARCH 15, 1996 AND RECORDED APRIL 25, 1996 AS DOCUMENT 96310895 OVER AND ACROSS THE LAND DESCRIBED THEREIN.

PIN: 15-06-217-005

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