

UNOFFICIAL COPY

0010719157

6798/0093 11 001 Page 1 of 8

2001-08-07 14:50:26

Cook County Recorder 35.50

This information drafted by [redacted]
[redacted]



McDermott, Will & Emery
227 West Monroe Street
Chicago, Illinois 60606-5096
Attention: Elizabeth L. Majers, Esq.

ASSIGNMENT AND ASSUMPTION OF LEASE AND LEASE GUARANTY

THIS AGREEMENT made as of ^{July} ~~June~~ 6, 2001, between DB Beverly, L.L.C., an Illinois limited liability company having its principal place of business at 20 North Wacker, Suite 1500, Chicago, Illinois 60606, (herein referred to as "Assignor") and Bevbook, LLC, a Delaware limited liability company, having an address at Kin Properties, 77 Tarrytown Road, White Plains, New York 10607 (herein referred to as "Assignee");

WITNESSETH:

WHEREAS, Assignor, as landlord, entered into that certain Lease dated as of February 2, 2001 (the "Lease") with Borders Inc., a Colorado corporation, as Lessee, for premises located at 2210 West 95th Street, Chicago, Illinois, more particularly described in Exhibit A attached hereto and in the Lease, a memorandum of which has been recorded in the Cook County Recorder's office on February 13, 2001, Document Number 0010114999.

WHEREAS, Assignor, as landlord, entered into that certain Lease Guaranty Agreement dated as of February 2, 2001 (the "Lease Guaranty") with Borders Group, Inc., a Michigan corporation, wherein the Guarantor guaranteed to Landlord the full and punctual performance by Tenant of all the terms, conditions, covenants, agreements and obligations to be performed and observed by the Tenant under the Lease.

WHEREAS, assignor now desires to assign its interest as landlord under the Lease and the Lease Guaranty to Assignee and Assignee desires to succeed to the interest of Assignor as landlord under the Lease and the Lease Guaranty and is willing to assume the observance and performance of the obligations of landlord under the Lease and the Lease Guaranty.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:-

Section 1: Assignor hereby assigns, transfers and sets over unto Assignee all of Assignor's right, title and interest as landlord under the Lease and the Lease Guaranty as of the date of this Agreement.

01LT1403 ③

RETURN DOCUMENTS TO:
Law Title - National Division
120 E. Railroad St., Ste. B
Sandwich, IL 60548

UNOFFICIAL COPY

07/23

COOK COUNTY CLERK'S OFFICE

Property of Cook County Clerk's Office

UNOFFICIAL COPY

10719157

Section 2: Assignee, for the benefit of Assignor, hereby agrees to assume, keep, observe and perform each and every one of the terms, covenants and conditions of the Lease and the Lease Guaranty on the landlord's part to be observed or performed under the Lease and the Lease Guaranty with the same force and effect as if Assignee had executed the Lease and the Lease Guaranty as the landlord named therein.

Section 3: Assignor hereby indemnifies and agrees to save Assignee its successors and assigns, harmless of and from all loss, cost, damage, liability and expense, including, but not limited to reasonable counsel fees, arising from or connected with Assignor's obligations with respect to the Lease and the Lease Guaranty which accrued prior to the date hereof.

Section 4: Assignee hereby indemnifies and agrees to save Assignor its successors and assigns, harmless of and from all loss, cost, damage, liability and expense, including, but not limited to reasonable counsel fees, arising from or connected with Assignee's obligations with respect to the Lease and the Lease Guaranty which accrue on or after the date hereof.

Section 5: This Agreement may be executed in any number of counterparts all of which together shall constitute but one instrument.

Section 6: THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF ILLINOIS, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PROVISIONS THEREOF. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES HERETO UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT.

Section 7: Except as expressly modified by the foregoing provisions of this Agreement, the Lease and the Lease Guaranty are hereby ratified and confirmed in all respects by each of the parties to this Agreement. All references to the Lessor in the Lease and the Landlord in the Lease Guaranty shall be deemed to be and include references to the Assignee.

Section 8: The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

UNOFFICIAL COPY

EXHIBIT A

10719157

Legal Description

Property of Cook County Clerk's Office

UNOFFICIAL COPY

10719157

FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Policy No.: Pro Forma
File No.: NYN01-5562IL(B)
Order No.: 01LT1403

EXHIBIT "A"
Legal Description

PARCEL 1:

The South 50 feet of the North 150 feet of Lot 79 in Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian, (except therefrom that portion of said Lot 79, falling in the schoolhouse lot, and except also the West 33 feet of said Lot 79 and except also that portion of Lot 79 lying South of a line 54 feet North of and parallel with the South line of said Section 6; conveyed to the City of Chicago by Quit Claim Deed dated October 15, 1930 and recorded November 10, 1930 as Document Number 10786683 in Book 28900, Page 276) all in Cook County, Illinois.

PARCEL 2:

Lot 79 (except the North 150 feet) in Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois, (except therefrom that portion of said Lot 79 falling in school house lot and excepting also the West 33 feet of said Lot 79 and excepting also that portion of Lot 79 lying South of a line 54 feet North of and parallel with the South line of said Section 6 and conveyed to City of Chicago by Quit Claim Deed dated October 15, 1930 and recorded November 10, 1930 as Document 10786683 in Book 28900 Page 276 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 3:

The North 154 feet of the South 208 feet of the West 175 feet of the East 208 feet of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 (otherwise described as Lot 81 of George A. Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14) East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 4:

Lot 41 (except the East 93 feet of said Lot 41) and except that part of said Lot 41 lying South of a line 54 feet North of and parallel with the South line of Section 6 in George A. Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 in Cook County, Illinois.

UNOFFICIAL COPY

10719157

FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Policy No.: Pro Forma
File No.: NYN01-5562IL(B)
Order No.: 01LT1403

EXHIBIT "A"
Legal Description
(continued)

PARCEL 5:

East 93 feet of Lot 41 (except East 33 feet of said Lot 41) and except that part of Lot 41 lying South of a line 54 feet North of and parallel with South line of Section 6 in George A. Chamber's Subdivision of West L ½ of Southwest 1/4 of Section 6, Township 37 North, Range 14 in Cook County, Illinois.

PARCEL 6:

The West ½ of that part of South Bell Avenue vacated by City of Chicago Ordinance enacted January 14, 1998, recorded April 9, 1998 as Document No. 98282079, being the East 33 feet of the part of Lot 41 lying North of the North line of West 95th Street as widened by Cook County Court Judgment entered July 9, 1941 as General Number 49438 in George A. Chambers Subdivision of the West Half of the Southwest Quarter of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian in Cook County, Illinois.

PARCEL 7:

The East ½ of that part of South Bell Avenue vacated by City of Chicago Ordinance enacted January 14, 1998 recorded April 9, 1998 as Document No. 98282079, being the West 33 feet of Lot 79 lying South of the Easterly extension of the North line of Lot 41 and North of the North line of West 95th Street as widened by Cook County Court Judgment entered July 9, 1941 as General Number 49438, in George A. Chambers Subdivision of the West Half of the Southwest Quarter of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian in Cook County, Illinois.

The above parcels are also described as follows:

UNOFFICIAL COPY

10719157

FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Policy No.: Pro Forma
File No.: NYN01-5562IL(B)
Order No.: 01LT1403

EXHIBIT "A"
Legal Description
(continued)

Part of Lots 41, 79 and 81 in George A. Chamber's Subdivision of the West Half of the Southwest Quarter of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian, and the adjacent portion of vacated South Bell Avenue, City of Chicago, Cook County, Illinois, being more particularly described as follows:

COMMENCING at the Southwest Corner of Lot 41;

THENCE North 00 degrees 11 minutes 00 seconds West 21.00 feet to an "X" set in the concrete sidewalk at the North Line of 95th Street at the Point of Beginning;

THENCE North 00 degrees 11 minutes 00 seconds West, 105.37 feet to a Set "X" in the concrete sidewalk;

THENCE North 89 degrees 59 minutes 43 seconds East, 329.25 feet to a set 3/4 inch steel rebar;

THENCE North 00 degrees 09 minutes 10 seconds West, 25.47 feet to a set 3/4 inch steel rebar;

THENCE North 89 degrees 59 minutes 25 seconds East, 88.57 feet to a set 3/4 inch steel rebar;

THENCE North 00 degrees 09 minutes 29 seconds West, 22.71 feet to a set 3/4 inch steel rebar;

THENCE North 89 degrees 59 minutes 39 seconds East, 174.53 feet being previously recorded as 175.00 feet to a set 3/4 inch steel rebar;

THENCE South 00 degrees 09 minutes 56 seconds East, 154.61 feet;

THENCE North 90 degrees 00 minutes 00 seconds West, 529.33 feet to an "X" set in the concrete sidewalk at the Point of Beginning.