

**ASSUMPTION AND
RELEASE AGREEMENT**

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(FM N) - ("CHI")

Debtor: Anthony Ruggiero, Chatka Ruggiero, R
Juris: Recorder of Deeds, Cook County, IL

This Assumption and Release Agreement is made and entered into as of the 8th day of August, 2001 by and among Anthony Ruggiero ("A. Ruggiero"), Chatka Ruggiero ("C. Ruggiero"), Rosner Shopping Center L.L.C., an Illinois limited liability company ("Company"),* Firststar Bank Illinois as successor trustee to First Colonial Trust Company as Trustee under Trust Agreement dated December 13, 1976 and known as Trust No. 1577 ("Trust 1577"), and Fifth Third Bank as successor trustee to Pinnacle Bank as successor trustee to Suburban Trust and Savings Bank as Trustee under Trust Agreement dated May 13, 1974 and known as Trust No. 2658 ("Trust 2658"); A. Ruggiero, C. Ruggiero, the Company, Trust 1577, and Trust 2658 collectively hereinafter referred to as "Assignee," and Bank One, N.A., with its main office at Chicago, Illinois, a national banking association, successor in interest to The First National Bank of Chicago, successor to First Chicago Bank of Oak Park, (the "Bank").

1. Preliminary Statement. A. Ruggiero, C. Ruggiero, Trust 1577, Trust 2658, and American National Bank and Trust Company of Chicago, successor trustee to First Chicago Trust Company of Illinois, as Trustee under Trust Agreement dated January 6, 1986 and known as Trust Number 9614 ("Trust 9614"), (collectively referred to as the "Original Borrower"), were indebted to the Bank pursuant to a certain Loan Agreement ("Loan Agreement") dated November 6, 1989, and evidenced by a certain Promissory Note dated November 6, 1989, in the original principal amount of \$2,500,000.00, as revised by a Promissory Note dated June 3, 1992, as revised by a certain Term Loan Note dated March 13, 1997 (collectively referred to as the "Note"). The following documents were executed in connection with the Loan Agreement and Note, collectively, the "Loan Documents."

- a. A certain Real Estate Mortgage and Assignment of Rents dated November 6, 1989 ("Mortgage"), made by Trust 1577, Trust 2658, and Trust 9614 (collectively, the "Mortgagor"), and recorded in the Cook County Recorder's Office on February 9, 1990 as Document No. LR 3859945 on property legally described on Exhibit A;

EXONERATION PROVISION RESTRICTING
ANY LIABILITY OF FIFTH THIRD BANK,
ATTACHED HERETO, IS HEREBY EXPRESSLY
MADE A PART HEREOF.

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- b. A certain Assignment of Rents and Lessor's Interest in Leases dated October 31, 1989 ("Assignment of Rents"), made by Original Borrower, and recorded in the Cook County Recorder's Office as Document No. 3859946;
- c. A certain Loan Modification Agreement dated June 3, 1992 ("First Modification"), made by Original Borrower and Bank, and recorded in the Cook County Recorder's Office on June 30, 1992 as Document No. 92476982;
- d. A certain Second Loan Modification Agreement dated March 13, 1997 ("Second Modification"), made by Original Borrower and Bank, and recorded in the Cook County Recorder's Office on April 8, 1997 as Document No. 97247508;
- e. A certain Security Agreement dated November 6, 1989 ("Security Agreement"), made by Original Borrower and Bank.

2. Assumption. Assignee hereby assumes and agrees to perform all of the duties and obligations of the Original Borrower and Mortgagor arising under each and every one of the provisions of the Loan Agreement, Note, and Loan Documents from and after the date hereof. Assignee, for itself, its agents, legal representatives, successors and assigns, hereby assumes and agrees to be bound by and perform all of the covenants, conditions, obligations and duties of the Original Borrower and Mortgagor under the Loan Agreement, Note, and Loan Documents, and agrees to relieve Original Borrower of any and all liability thereunder from and after the date hereof.

3. Receipt of Agreements. Assignee acknowledges receipt of copies of the Loan Agreement, Note, and Loan Documents.

4. Conditions Precedent. The effectiveness of this Agreement is conditioned upon the delivery to the Bank of:

- a. Environmental Indemnity Agreement dated as of even date executed by A. Ruggiero, C. Ruggiero, and Company;
- b. Any and all other agreements, fees, and documents required by the Bank in connection with this transaction.

5. Effective Date. This Agreement and the undertakings of Assignee hereunder shall be effective as of the date hereof upon the execution of this Agreement by the parties hereto and the satisfaction of the conditions enumerated above.

6. Modification. Any waiver, alteration or modification of any of the provisions of this Assumption and Release Agreement or cancellation or replacement of this Assumption and Release Agreement shall not be valid unless in writing and signed by all of the parties hereto.

7. Entire Agreement. This Agreement contains the entire agreement of the Parties, and supersedes and replaces all prior negotiations and any other agreement or agreements, oral or written, concerning the subject matter hereof. It may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

8. Further Assurances. Assignee shall, at any time, and from time to time following execution of this Agreement, promptly execute and deliver, or cause to be executed and delivered to the Bank or its designee, all such further instruments and take all such further action as may be necessary to carry out the purposes and intent of this Agreement.

9. Counterpart. This Agreement may be executed in any number of counterparts. Each such executed counterpart shall be considered an original, and no other counterpart need be produced for any purpose.

10. Governing Law. This Agreement shall be construed under and governed by the internal laws of the State of Illinois.

11. Severability. It is specifically agreed by and between the parties hereto that if any of the provisions of this Agreement shall contravene or be invalid under the laws of the State of Illinois, then it is agreed that such contravention or invalidity shall not invalidate the whole Agreement, but it shall be construed as if not containing the particular provision or provisions held to be invalid.

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, assigns and legal representatives.

13. Headings. This Agreement shall not be interpreted by reference to any of the title headings to the paragraphs herein, which have been inserted for convenience purposes and are not deemed a part hereof.

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

ASSIGNEE:

Anthony Ruggiero
Anthony Ruggiero

Chatka Ruggiero
Chatka Ruggiero

Rosner Shopping Center L.L.C., an Illinois limited liability company

By: Anthony Ruggiero
Anthony Ruggiero
Its: 50% Member

By: Chatka Ruggiero
Chatka Ruggiero
Its: 50% Member

BANK:

Bank One, N.A., with its main office at Chicago, Illinois, successor in interest to The First National Bank of Chicago, successor to First Chicago Bank of Oak Park

By: Ursula Moncau
Name: Ursula Moncau
Title: Officer

Firststar Bank N.A. fka Firststar Bank Illinois as successor trustee to First Colonial Trust Company as Trustee under Trust Agreement dated December 13, 1976 and known as Trust No. 1577

By: Mary Figiel
Name: Mary Figiel
Its: Land Trust Officer

~~is hereby expressly made a part hereof.~~
Exonerated or Exculpatory Language, which is hereby expressly made a part hereof.

Fifth Third Bank as successor trustee to Pinnacle Bank as successor trustee to Suburban Trust and Savings Bank as Trustee under Trust Agreement dated May 13, 1974 and known as Trust No. 2658

By: Nancy Judala
Name: NANCY FUDALA
Its: LAND TRUST OFFICER

THIS DOCUMENT IS SIGNED BY FIFTH THIRD BANK, NOT INDIVIDUALLY BUT SOLELY AS TRUSTEE UNDER A CERTAIN TRUST AGREEMENT KNOWN AS TRUST NO. 2658. SAID TRUST AGREEMENT IS HEREBY MADE A PART HEREOF AND ANY CLAIMS AGAINST SAID TRUSTEE WHICH MAY RESULT FROM THE SIGNING OF THIS DOCUMENT SHALL BE MADE PAYABLE ONLY OUT OF ANY TRUST PROPERTY WHICH MAY BE HELD THEREUNDER AND SAID TRUSTEE SHALL NOT BE PERSONALLY LIABLE FOR THE PERFORMANCE OF ANY OF THE TERMS OR CONDITIONS OF THIS DOCUMENT OR FOR THE VALIDITY OR CONDITION OF THE TITLE OF SAID PROPERTY OR FOR ANY AGREEMENT WITH RESPECT THERETO. ANY AND ALL PERSONAL LIABILITY OF THIRD THIRD BANK IS HEREBY EXPRESSLY WAIVED BY THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

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GENERAL DOCUMENT EXONERATION RIDER

The foregoing instrument is executed by FIRSTAR BANK, N.A., not personally but as Trustee under Trust No. 1577 as aforesaid, in the exercise of power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing in said instrument shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing thereunder, or to perform any promises, agreements or covenants or to honor any warranties or representations, either expressed or implied, including but not limited to warranties (including but not limited to warranties of title, physical condition, environmental condition, merchantability, and fitness for particular purpose), indemnifications (including but not limited to indemnifications for injury to persons or property, for environmental liability, and for liability or damages resulting from or relating to claims or matters of any nature whatsoever), and hold harmless representations in said instrument (all such liability, if any, being expressly waived by the parties hereto and their respective successors and assigns) and that so far as said Trustee is concerned, the owner of any indebtedness or right accruing under said document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said Trustee merely holds legal title to the premises described therein and has no control over the management thereof or the income therefrom, and has no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said trust. In event of conflict between the terms of this rider and of the instrument to which it is inserted or attached, on any questions of apparent liability or obligation resting upon said trustee, the provisions of this rider shall be controlling.

EXONERATION PROVISION RESTRICTING
ANY LIABILITY OF FIFTH THIRD BANK,
ATTACHED HERETO, IS HEREBY EXPRESSLY
MADE A PART HEREOF.

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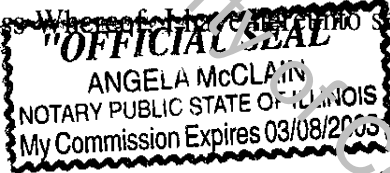
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STATE OF ILLINOIS)
)SS:
COUNTY OF Cook)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that the foregoing instrument was acknowledged before me on this 28th day of March, 2002, by Mary Figiel, as Land Trust Officer of Firststar Bank Illinois as successor trustee to First Colonial Trust Company, not personally but solely as Trustee under Trust Agreement dated December 13, 1976, and known as Trust No. 1577, on behalf of the Trust.

In Witness Whereof, I have hereunto set my hand and seal the day and year before written.



Angela McClain
Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
)SS:
COUNTY OF DuPage)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that the foregoing instrument was acknowledged before me on this 27th day of MARCH, 2002, by Nancy Fudala, as Land Trust Officer of Fifth Third Bank as successor trustee to Pinnacle Bank as successor trustee to Suburban Trust and Savings Bank, not personally but solely as Trustee under Trust Agreement dated May 13, 1974, and known as Trust No. 2658, on behalf of the Trust.

In Witness Whereof, I have hereunto set my hand and seal the day and year before written.

Carol Pratali

Notary Public

My Commission Expires: _____



EXONERATION PROVISION RESTRICTING ANY LIABILITY OF FIFTH THIRD BANK, ATTACHED HERETO, IS HEREBY EXPRESSLY MADE A PART HEREOF.

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EXHIBIT A

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PARCEL 1:

LOT 2 AND LOT 4 IN BRANIGAR'S COMMERCIAL RESUBDIVISION OF LOT 103 IN BRANIGAR'S MEDINAH SUNSET HILLS UNIT NO. 2, A SUBDIVISION IN THE NORTH EAST $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 2263109, IN COOK COUNTY, ILLINOIS

Commonly known as: Blockbuster Center, NE Corner of Nerge & Roselle Roads
Roselle, Illinois

P.I.N. : 07-34-207-020; 07-34-207-022

PARCEL 2:

LOT 7, LOT 8 AND LOT 11 IN BLOCK 1 IN SCOVILLE AND NILES ADDITION TO OAK PARK, IN THE SOUTH WEST $\frac{1}{4}$ OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 112-122 South Maple Avenue, Oak Park, Illinois

P.I.N.: 16-07-301-002 (Lots 7 & 8); 16-07-301-003 (Lot 11)

PARCEL 3:

THE SOUTH THREE (3) FEET OF LOT EIGHT (8), ALL OF LOT NINE (9), AND LOT TEN (10) (EXCEPT THE SOUTHERLY THIRTY THREE (33) FEET THEREOF) IN BLOCK FOUR (4) IN OAK PARK AVENUE SUBDIVISION, BEING A SUBDIVISION OF LOTS TWO (2) AND THREE (3) AND THAT PART OF LOT ONE (1) LYING WEST OF OAK PARK AVENUE, IN THE PARTITION BY THE CIRCUIT COURT OF COOK COUNTY, OF THE EAST HALF (1/2) OF LOT TWO (2) IN THE SUBDIVISION (BY MURPHY, JERVIS & OTHERS) OF SECTION 18, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THE WEST HALF (1/2) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION , IN COOK COUNTY, ILLINOIS.

Commonly known as: 804-810 Harrison Street, Oak Park, Illinois

P.I.N.: 16-18-135-019