

UNOFFICIAL COPY

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2002-11-06 09:44:41  
Cook County Recorder 44.00



0021225501

This Document Prepared By And  
When Recorded Return To:

Strauss & Malk  
104 Wilmot - Suite 350  
Deerfield, Illinois 60015

For Recorder's Use Only

ASSIGNMENT OF RENTS AND LEASES

**THIS ASSIGNMENT OF RENTS AND LEASES** (this "Assignment") is made jointly and severally on Sept. 30, 2002 by and among Cole Taylor Bank, not personally, but as Trustee under Trust Agreement dated September 10, 2002, and known as Trust No. 02-9539 (**Trustee**), Zlatko Pehar and Mary Pehar, both individuals residing in Illinois (together referred to as "**Beneficiary**") to COLE TAYLOR BANK ("**Lender**"). Trustee and Beneficiary are hereinafter jointly referred to as "**Assignor**."

Assignor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver unto Lender all right, title and interest of the Assignor and each of them in, to and under all present leases of all or any part of the premises legally described in **Exhibit "A"** attached hereto and made a part hereof ("**Premises**") (including without limitation those leases described on the "**Schedule of Leases**" attached hereto and made a part hereof as **Exhibit "B"**) together with all future leases hereafter entered into by any lessor affecting the Premises, and all guaranties, amendments, extensions and renewals thereof (collectively, the "**Leases**") and all rents, income and profits (collectively, "**Rents**") which may now or hereafter be or become due or owing under the Leases or on account of the use of all or part of the Premises.

1. **Purpose of Assignment.** This Assignment is made for the purposes of securing:
  - a. The payment of the indebtedness evidenced by the Promissory Note dated of even date herewith made by Assignor in favor of Lender in the principal amount of One Million Three Hundred Thousand and No/100 Dollars (\$1,300,000.00) (the "**Note**");
  - b. The payment of all other sums with interest thereon becoming due and payable to Lender under the provisions of that certain Mortgage and Security Agreement in favor of Lender of even date herewith (the "**Mortgage**") and the other "**Loan Documents**" (as defined in the Mortgage); and
  - c. The performance and discharge of each and every representation, warranty, term, covenant and condition of Assignor contained in the Note, the Mortgage and the other Loan Documents.

**BOX 333-CTI**

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Roth

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2. **Assignors Covenants, Representations and Warranties; Lender's Rights.** Assignor represents, warrants, covenants and agrees as follows:

- a. There is no present lease of the Premises not listed on the Schedule of Leases.
- b. Assignor has not and shall not: (i) perform any act or execute any other instrument which might prevent Lender from fully exercising its rights under any term, covenant or condition of this Assignment; (ii) execute any assignment or pledge of Rents or any of the Leases other than this Assignment; (iii) accept any payment of any installment of rent more than thirty (30) days before the due date thereof; or (iv) make any lease of the Premises except for actual occupancy by the tenant thereunder.
- c. Each of the Leases listed on the Schedule of Leases is valid and enforceable in accordance with its terms, and none has been altered, modified, amended, terminated, canceled, renewed or surrendered, nor has any term or condition thereof been waived in any manner whatsoever.
- d. Without the prior written approval of Lender, which consent shall not be unreasonably withheld, none of the Leases shall be materially altered, modified, amended, terminated, canceled or surrendered, except in the ordinary course of business and only in the event such action does not have a material adverse effect on the operation of, or the rental income from, the Premises, nor shall any term or condition thereof be waived.
- e. There is no default now existing under any of the Leases in the payment of rent, and, to the best of Assignor's knowledge, there is no other default now existing under any of the Leases, and to the best of Assignor's knowledge, there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.
- f. Assignor will fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be fulfilled or performed and, at the sole cost and expense of Assignor, enforce (short of termination of any of the Leases) the performance and observance of each and every covenant and condition of all such Leases by the tenants thereunder to be performed and observed.
- g. Assignor shall give prompt notice to Lender of each notice received by Assignor or any of them 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.
- h. Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of any landlord and any tenant under any of the Leases.
- i. Without Lender's prior written consent in each case, which consent shall not be unreasonably withheld, 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.

- j. This Assignment is absolute and is effective immediately; however, until notice is sent by Lender to the Assignor in writing that an event of default has occurred under the Note or any other Loan Document which has not been cured within any applicable cure period (an “**Event of Default**”) (each such notice is hereafter called a “**Notice**”), Assignor may receive the Rents.
- k. If any Event of Default occurs at any time, Lender may (at its option after service of a Notice) receive and collect when due all Rents. Lender shall thereafter continue to receive and collect all Rents until the Event of Default is cured, during the pendency of any foreclosure proceedings, and during the redemption period (as applicable).
- l. Upon the occurrence of an Event of Default, Assignor hereby irrevocably appoints Lender its true and lawful attorney-in-fact, with full power of substitution and with full power for Lender in its own name and capacity or in the name and capacity of Assignor (from and after service of Notice) to demand, collect, receive and give complete acquittances for any and all Rents and at Lender's discretion to file any claim or take any other action or proceeding and make any settlement of any claims, in its own name or in the name of Assignor or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the Rents. All present and future tenants of the Premises are hereby expressly authorized and directed to pay to Lender, or to such nominee as Lender may designate in a writing delivered to and received by such tenants, all amounts due Assignor pursuant to the Leases. All present and future tenants are further expressly authorized and directed to rely on notices from Lender and shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is then existing, and are expressly relieved of all duty, liability or obligation to Assignor in respect of all payments so made to Lender or such nominee.
- m. After an Event of Default and service of Notice, Lender is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the Rents, including without limitation the right of Lender or its designee to enter upon the Premises, or any part thereof, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor and each of them relating thereto, and may exclude the Assignor and its agents and employees therefrom. Assignor hereby grants full power and authority to Lender to exercise all rights, privileges and powers herein granted at any and all times (after an Event of Default and service of Notice) without further notice to Assignor, with full power to use and apply all of the Rents to payment of the costs of managing and operating the Premises and to payment of all “**Indebtedness**” (as defined in the Mortgage), including but not limited to: (i) payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, and attorneys' fees incurred in connection with the enforcement of this Assignment; and (ii) principal, interest and all other payments due to Lender pursuant to the Note and the Mortgage; all in such order and for such time as Lender may determine.

- n. Lender shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of any landlord under any of the Leases. Lender does not hereby assume any of the liabilities in connection with or arising or growing out of the terms, covenants and agreements of Assignor under any of the Leases.
- o. Assignor agrees to indemnify, defend, and hold Lender harmless from any liability, loss or damage including, without limitation, reasonable attorneys' fees which may or might be incurred by Lender under the Leases or by reason of this Assignment, and from and against any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on its part to perform or discharge any term, covenant or agreement contained in any of the Leases, except any liability, loss or damage or claims or demands resulting from Lender's gross negligence.
- p. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Lender, nor shall it operate to make Lender liable for: (i) the performance or observance of any term, condition, covenant or agreement contained in any of the Leases; (ii) any waste of the Premises by any tenant under any of the Leases or any other person; (iii) any dangerous or defective condition of the Premises; or (iv) any negligence in the management, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, occupant, licensee, employee or stranger, other than as a result of Lender's gross negligence.
- q. Lender may: (i) take or release other security; (ii) release any party primarily or secondarily liable for any of the Indebtedness; (iii) grant extensions, renewals or indulgences with respect to the Indebtedness; and (iv) apply any other security therefor held by Lender to the satisfaction of the Indebtedness; in each case without prejudice to any of Lender's other rights hereunder or under any other Loan Document.
- r. Lender may, at its option after reasonable notice to Assignor, although it shall not be obligated to do so, perform any Lease covenant for and on behalf of Assignor, and all monies expended in so doing shall be chargeable to Assignor, with interest thereon at the "Default Interest Rate" (as defined in the Note), shall be added to the Indebtedness, and shall be immediately due and payable.

3. **Waiver.** Waiver of, or acquiescence by Lender in, any default by the Assignor, or failure of the Lender to insist upon strict performance by Assignor of any representation, warranty, covenant, condition or agreement in this Assignment, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

4. **Rights Cumulative.** The rights, remedies and powers of Lender under this Assignment are cumulative and are not in lieu of, but are in addition to, all other rights, remedies and powers which Lender has under the Note, the other Loan Documents, at law and in equity.

5. **Severability.** If any provision contained in this Assignment or its application to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Assignment and the application of such provisions to persons or circumstances (other than those as to which it is invalid or unenforceable) shall not be affected, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

6. **Notices.** Each Notice given pursuant to this Assignment shall be sufficient if given in accordance with the Mortgage.

7. **Successors and Assigns.** The terms "Assignor," "Lender," "Trustee" and "Beneficiary" shall be construed to include the heirs, personal representatives, successors and assigns thereof.

8. **Gender and Number.** The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

9. **Amendment; Incorporation of Terms.** This Assignment may not be amended, modified or changed nor shall any waiver of any provisions hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought. The terms of the Note and Mortgage are incorporated herein by this reference.

10. **Trustee Exculpation.** This Assignment is executed by Trustee, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein contained or in the Note contained shall be construed as creating any liability on the Trustee personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Trustee and by every person now or hereafter claiming any right or security hereunder.

[Signature Pages Follow]

IN WITNESS WHEREOF, Borrower has executed this Assignment of the day and year first above written.

Cole Taylor Bank, not personally but as Trustee under Trust Agreement dated September 10, 2002 and known as Trust No. 02-9539

*[Signature]*  
By: MARIO V. GOTANCO  
Its: Vice President

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MARIO V. GOTANCO, as Vice President of Cole Taylor Bank, an Illinois banking association, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of September, 2002.



*[Signature]*  
NOTARY PUBLIC  
My Commission Expires:  
\_\_\_\_\_









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EXHIBIT A

21225501

## LEGAL DESCRIPTION

LOTS 19 AND 20 IN BLOCK 3 IN INGLEDEWS ADDITION TO RAVENSWOOD, A SUBDIVISION OF THE SOUTH 21.37 ACRES OF THE NORTH 31 ACRES OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 7 AND THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 14-07-422-001-0000

CKA: 4893-99 North Hermitage, Chicago, Illinois 60640

Property of Cook County Clerk's Office

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**EXHIBIT B**

**21225501**

**SCHEDULE OF LEASES**

~~Property of Cook County Clerk's Office~~

**21225501**

Property of COOK COUNTY Clerk's Office

EXHIBIT B

**Rent Roll**  
KAV - 4893-99 N HERMITAGE AVE

Page 1  
9/26/2002  
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Unit	Unit Type	Tenant Code	Tenant Name	Unit Sqft	Market Rent	Actual Rent	Deposit	Lease From	Lease To	NSF	Late
19-1	RBLAC		HILARY BLACK	0.0	0.00	880.00	2,225.00	08/01/02	08/31/03	1	0
19-2	RBLA		SCOTT COLEMAN BLACKBU	0.0	750.00	750.00	2,250.00	11/01/02	10/31/03	0	0
19-3	RSIM		AMY LYNN SIMPSON	0.0	845.00	845.00	1,250.00	11/01/01	10/31/02	0	0
21-1	RIRE		MARCIA IRELAND	0.0	875.00	875.00	975.00	08/01/02	07/31/03	0	0
21-2	RTIN		MELODY TINER	0.0	880.00	880.00	980.00	06/01/02	05/31/03	0	0
21-3	RSTA		BRENDA STANSBERY	0.0	825.00	825.00	1,850.00	05/24/02	05/31/03	1	0
31-1	RSCH		MICHAEL SCHLIE	0.0	860.00	860.00	980.00	01/15/02	01/31/03	0	0
31-2	RROB		BRANDON M ROBY	0.0	885.00	985.00	2,550.00	05/01/02	04/30/03	0	0
31-3	RMAR		CAMERON & KATHLEEN MA	0.0	875.00	875.00	975.00	05/01/02	04/30/03	0	0
33-1	RDEA		ANTHONY DE ANGELO	0.0	860.00	860.00	1,920.00	10/01/02	09/30/03	0	0
33-1C			VACANT	0.0	855.00						
33-2	RFRE		DALLAS FRENCH	0.0	875.00	875.00	975.00	08/01/02	07/31/03	0	0
33-3	RKUM		RUBY KUMAR	0.0	875.00	875.00	995.00	10/01/02	09/30/03	2	0
93-1	RROU		DAVID ROUSSEAU	0.0	705.00	705.00	1,410.00	//	//	2	0
93-2			VACANT	0.0	905.00						
93-3			VACANT	0.0	805.00						
93-G	RGAL		MARY GALLARDO	0.0	745.00	745.00	1,300.00	05/01/02	04/30/03	7	0
95-1	RKIM		PATRICIA KIM	0.0	905.00	905.00	1,005.00	07/01/02	06/30/03	0	0
95-2	RWILD		CELIA WILDE	0.0	905.00	905.00	1,005.00	08/01/02	07/31/03	0	0
95-3	RJAC		KENNETH JACOB	0.0	880.00	880.00	980.00	08/01/02	07/31/03	6	0
97-1	RBEG		RENEE BEGY	0.0	850.00	850.00	950.00	11/01/01	10/31/02	0	0
97-2	RROBE		NICOLE ROBERTS	0.0	905.00	905.00	1,810.00	10/01/02	09/30/03	1	0
97-3	RHUB		JENNIFER HUBER	0.0	895.00	895.00	1,790.00	07/01/02	08/30/03	0	0
99-1	RGRI		TIM GRIEME	0.0	875.00	875.00	975.00	08/01/02	07/31/03	0	0
99-2	RBEG		MIKKI BEYMER	0.0	850.00	850.00	950.00	11/01/01	10/31/02	6	0
99-3	RIMM		KELLY IMMEL	0.0	905.00	905.00	1,810.00	11/01/01	10/31/02	1	0
99-G	RGRA		BRAD GRAY	0.0	725.00	725.00	850.00	10/01/02	09/30/03	0	0
998	LNORYR		LAUNDRY-RAV	0.0	100.00	100.00	0.00	//	//	0	0
999	MISCR		MISC RECEIPTS	0.0	0.00	0.00	0.00	//	//	1	0
99GAR			VACANT	0.0	880.00						
RP-1	PROB		NICOLE ROBERTS	0.0	65.00	65.00	65.00	11/01/01	09/30/02	0	0
RP-2	PBLA		HILARY BLACK	0.0	55.00	65.00	65.00	10/01/00	//	0	0
RP-GAR	PFRAN		FRANK FRANK	0.0	250.00	250.00	0.00	//	//	0	0
33			Total	0.0	23,465.00	20,910.00	<del>89,400.00</del>			28	0
29			Total Occupied	0	20,020.00	20,910.00	31,970.00				
87.88			% Occupied		85.32	89.11					
4			Total Vacant	0	3,445.00						
12.12			% Vacant		14.68						