

UNOFFICIAL COPY

0030149939

Recording Requested By
and When Recorded Return to:

4907/0141 90 001 Page 1 of 13
2003-01-31 14:04:03
Cook County Recorder 49.50

Curtis R. Ward & Associates, P.C.
265 East 100 South, Suite 250
Salt Lake City, Utah 84111
Attn: N. W. Cutler



(Space above this line for recorder's use only)

SEVENTH AMENDMENT TO LEASE

ABS #3296 - Harlem & Foster
Chicago, Illinois

THIS SEVENTH AMENDMENT TO LEASE ("**Amendment**"), is made as of the 30 day of January, 2003 ("**Amendment Date**"), by and among ALBERT HANS, LLC, an Illinois limited liability company ("**Albert Hans**"), JEWEL FOOD STORES, INC., a New York corporation ("**JFSI**"), and WALGREEN CO., an Illinois corporation ("**Walgreen's**"); individually, a "**Party**", or collectively, the "**Parties**".

RECITALS

A. Albert Hans is the current fee owner of certain real property located at the northwest corner of Harlem Avenue and Foster Avenue, Chicago, Illinois ("**Shopping Center**"). The Shopping Center is more particularly described on Exhibit "A".

B. The Shopping Center was formerly owned by American National Bank & Trust Company of Chicago, a national banking association ("**American**"), as Trustee under Trust Agreement dated March 156, 1978, and known as Trust No. 42395 ("**Trust**"). Soga, Inc., an Illinois corporation ("**Soga**"), was the sole beneficiary of the Trust. American conveyed fee title to the Shopping Center to Soga, and Soga then conveyed fee title to the Shopping Center to Albert Hans.

C. Albert Hans is the current landlord, and JFSI is the current tenant, under that certain Lease dated as of February 21, 1962, a Short Form of which Lease was recorded on March 2, 1962, in the Official Records of Cook County, Illinois in Book No. 348896 as Instrument No. 18415161, which Lease has been subsequently modified and/or supplemented by that certain: (i) Amendment to Lease dated July 5, 1962; (ii) Second Amendment to Lease dated February 26, 1963; (iii) Assignment of Leases dated February 1, 1964; (iv) Release of Interest dated November 10, 1965; (v) Third Amendment to Lease dated December 17, 1969; (vi) Fourth Amendment to Lease dated October 28, 1970; (vii) Fifth Amendment to Lease dated October 17, 1973; (viii) Sixth Amendment to Lease dated October 17, 1975; (ix) Assignment of Lease dated February 1, 1976; (x) Notice of Sale of Shopping Center dated May 15, 1978; (xi) Option Exercise Letter dated August 18, 1989; (xii) Option Exercise Letter dated November 4, 1994; (xiii) Agreement dated March 31, 1998; (xiv) Option Exercise Letter dated October 29, 1999; and (xv) Letter Agreement dated April 7, 2000 (collectively, the "**Jewel Lease**").

2 of 6
89627
1ST AMERICAN TRUST CO. #

Send To

13

UNOFFICIAL COPY

30149939

D. Pursuant to the Lease, JFSI leases certain premises in the Shopping Center, which premises are more particularly described in the Lease (the "**Jewel/Osco Premises**").

E. Section 1(a) of the Jewel Lease provides, in part that, JFSI shall not use the Jewel/Osco Premises in violation of the provisions of the existing leases, including any renewals or extensions thereof, which shall not include any additional restrictions, of other stores in the Shopping Center as set out on Exhibit "C" to the Jewel Lease.

F. Exhibit "C" provides, in part:

"7220 Foster Avenue

Exclusives 9. Landlord covenants and agrees that, during the continuance of this lease and so long as all or any portion of the leased premises shall be used for the sale of drugs and the filling of medical prescriptions, no other portion of the entire property shown on said attached plan will be used for the operation of a drug store or a so-called prescription pharmacy or for any other purpose regarding a qualified pharmacist. This provision shall also apply to any additional property which Landlord, directly or indirectly, may now or hereafter own or control, and which may be adjacent to said Shopping Center, or which may be added to or used in conjunction therewith. During such time that Tenant shall sell same in the leased premises, Landlord covenants and agrees that no other portion of said property shown on attached plan or of said additional property except the portions thereof occupied by the Jewel Tea Co. Super Market and the High-Low Foods, Inc. Supermarket, will be used for the display and sale of alcoholic beverages for consumption off the premises. Landlord further covenants and agrees that, during the continuance of this lease, no other portion of said property shown on said attached plan (or of said additional property) east of the leased premises or within 200 feet west of the leased premises will be used for the sale of food for consumption on the premises, provided that the foregoing shall not apply to the operation of a soda fountain in the S. S. Kresge Co. Variety Store and shall not apply to the sale of malted milks in the Andes Candies Shop located in Store No. 4 as shown on said attached plan."

G. The Parties acknowledge that the exclusive described in Recital "F" above is for the benefit of Walgreen's, is set forth in a certain lease between Walgreen's and the predecessor-in-interest of Albert Hans, and is hereinafter referred to as the "**Walgreen's Exclusive**".

H. American Drug Stores, Inc., an Illinois corporation ("**ADSI**"), is the fee owner of certain real property located at, or in the vicinity of, the southwest corner of Vollmer Road and Kedzie Avenue, in Olympia Fields, Illinois (the "**Other Property**").

I. ADSI and Vollmer Development Group, L.L.C., an Illinois limited liability company ("**Vollmer**"), are parties to that certain Purchase and Sale Agreement dated November 15, 2002, for the sale of the Other Property to Vollmer.

J. Vollmer intends to enter into a ground lease with Walgreen's for the Other Property.

UNOFFICIAL COPY

K. As part of the sale of the Other Property to Vollmer, ADSI is requiring that the Jewel Lease be amended so as to eliminate the Walgreen's Exclusive.

NOW THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. EFFECTIVE DATE. The "**Effective Date**" shall be the earlier to occur of: (i) that date which is one (1) year from the Amendment Date; or (ii) the date upon which Walgreen's opens for business at the Other Property.

2. WALGREEN'S EXCLUSIVE.

2.1 On the Effective Date, the Walgreen's Exclusive shall be automatically deleted from the Jewel Lease and of no further force or effect with respect to the Jewel/Osco Premises.

2.2 In addition, from and after the Effective Date and notwithstanding anything contained in the Jewel Lease, JFSI shall be permitted to use the Jewel/Osco Premises as: (i) a pharmacy; or (ii) for the sale, or offer for sale, of any pharmaceutical products requiring the services of a registered pharmacist.

3. MISCELLANEOUS.

3.1 The terms set forth in this Amendment are intended by the Parties as a final, complete and exclusive express of their agreement with respect to such terms, and may not be explained, contradicted or supplemented by evidence of any prior or contemporaneous representations, omissions or agreements. This Amendment may not be amended or modified by any act or conduct of the Parties or by oral agreement, unless reduced to writing and signed by all Parties.

3.2 If any provision of this Amendment is hereafter held to be invalid, such holding will not affect the validity of the remainder of this Amendment.

3.3 The above Recitals and the Exhibits attached hereto, are incorporated herein by this reference and constitute an integral part of this Amendment.

3.4 This Amendment shall be binding upon, and inure to the benefit of, the Parties and their respective transferees, heirs, subtenants, successors and assigns. The Parties do not contemplate or intend to create any third party beneficiaries of this Amendment.

3.5 In the event of any conflict between the terms of this Amendment and the terms of the Jewel Lease, the terms of this Amendment shall control.

3.6 In the event any Party commences a legal proceeding to enforce any of the terms of this Amendment, the prevailing Party in such action shall have the right to recover reasonable attorneys' fees and costs from the other Party(ies), to be fixed by the court in the same action.

UNOFFICIAL COPY

30149939

3.7 This Amendment shall be governed by, and construed in accordance with, the laws of the State of Illinois.

3.8 This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument, and shall be effective upon execution of one or more of such counterparts by each of the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

Jewel Food Stores, Inc.,
a New York corporation

Walgreen Co.,
an Illinois corporation


By: _____
Name: William H. Arnold
Title: Vice President

By: _____
Name: _____
Title: _____

“JFSI”

“Walgreen’s”

Albert Hans, LLC,
an Illinois limited liability company,

By: 
Name: DAVID GLICKSTEIN
Title: vice-President

“Albert Hans”

UNOFFICIAL COPY

30149939

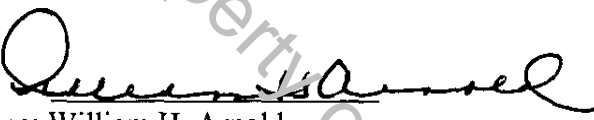
3.7 This Amendment shall be governed by, and construed in accordance with, the laws of the State of Illinois.

3.8 This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument, and shall be effective upon execution of one or more of such counterparts by each of the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

Jewel Food Stores, Inc.,
a New York corporation

Walgreen Co.,
an Illinois corporation

By: 
Name: William H. Arnold
Title: Vice President

By: _____
Name: _____
Title: _____

“JFSI” *NVL*

“Walgreen’s”

Albert Hans, LLC,
an Illinois limited liability company,

By: _____
Name: _____
Title: _____

“Albert Hans”

UNOFFICIAL COPY

30149939

3.7 This Amendment shall be governed by, and construed in accordance with, the laws of the State of Illinois.

3.8 This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument, and shall be effective upon execution of one or more of such counterparts by each of the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

Jewel Food Stores, Inc.,
a New York corporation

Walgreen Co.,
an Illinois corporation

By: _____
Name: William H. Arnold
Title: Vice President

WHA

By: *[Signature]*
Name: ALLAN M. RESNICK
Title: VICE PRESIDENT

“JFSI”

“Walgreen’s”

Albert Hans, LLC,
an Illinois limited liability company,

By: _____
Name: _____
Title: _____

“Albert Hans”

UNOFFICIAL COPY

30149939

STATE OF IDAHO)
) S.S.
COUNTY OF ADA)

On this _____ day of _____, 200__, before me, the undersigned, a Notary Public in and for such County and State, personally appeared William H. Arnold, known or identified to me to be the Vice President of Jewel Food Stores, Inc., a New York corporation, the corporation that executed the foregoing instrument, and acknowledged to me that such instrument is the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute such instrument.

WITNESS MY HAND and official seal hereto, affixed the day, month and year in this certificate first above written.

My commission expires.

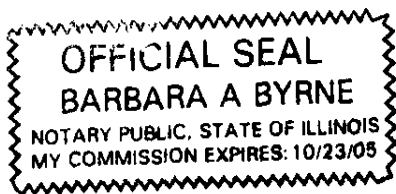
Notary Public in and for the State of Idaho.
Residing at Boise, Idaho.

STATE OF ILLINOIS)
) S.S.
COUNTY OF LAKE)

On this 29th day of January, 2008, before me, the undersigned, a Notary Public in and for such County and State, personally appeared ALLAN M RESWICK known or identified to me to be the VICE PRESIDENT of Walgreen Co., an Illinois corporation, the corporation that executed the foregoing instrument, and acknowledged to me that such instrument is the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute such instrument.

WITNESS MY HAND and official seal hereto, affixed the day, month and year in this certificate first above written.

My commission expires:



Barbara A. Byrne
Notary Public in and for the State of
Ill
Residing at Deerfield, Ill

UNOFFICIAL COPY

30149939

STATE OF IDAHO)
) S.S.
COUNTY OF ADA)

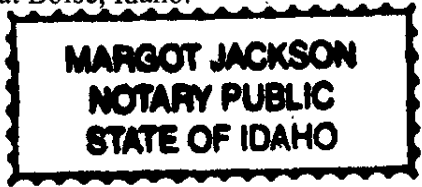
On this 29th day of January, 2003, before me, the undersigned, a Notary Public in and for such County and State, personally appeared William H. Arnold, known or identified to me to be the Vice President of Jewel Food Stores, Inc., a New York corporation, the corporation that executed the foregoing instrument, and acknowledged to me that such instrument is the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute such instrument.

WITNESS MY HAND and official seal hereto, affixed the day, month and year in this certificate first above written.

My commission expires:

8-26-08

Margot Jackson
Notary Public in and for the State of Idaho.
Residing at Boise, Idaho.



STATE OF _____)
) S.S.
COUNTY OF _____)

On this _____ day of _____, 200____, before me, the undersigned, a Notary Public in and for such County and State, personally appeared _____, known or identified to me to be the _____ of Walgreen Co., an Illinois corporation, the corporation that executed the foregoing instrument, and acknowledged to me that such instrument is the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute such instrument.

WITNESS MY HAND and official seal hereto, affixed the day, month and year in this certificate first above written.

My commission expires:

Notary Public in and for the State of _____
Residing at _____

UNOFFICIAL COPY

MARGOT JACKSON
NOTARY PUBLIC
STATE OF IDAHO

Property of Cook County Clerk's Office

UNOFFICIAL COPY

30149939

STATE OF ILLINOIS)
) S.S.
COUNTY OF COOK)

On this 29th day of January, 2003, before me, the undersigned, a Notary Public in and for such County and State, personally appeared DAVID GLICKSTEIN, known or identified to me to be the Vice-President of Albert Hans, LLC, an Illinois limited liability company, the company that executed the foregoing instrument, and acknowledged to me that such instrument is the free and voluntary act and deed of such company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute such instrument.

WITNESS MY HAND and official seal hereto, affixed the day, month and year in this certificate first above written.

My commission expires:

January 24, 2004

N. Ray
Notary Public in and for the State of
ILLINOIS
Residing at Chicago

.....
"OFFICIAL SEAL"
NICOLE CAM
Notary Public, State of Illinois
My Commission Expires 1/24/04
.....

EXHIBIT A

PARCEL ONE: All that parcel of land in the South Half of the South Half of the Northeast Quarter of Section 12, Township 40 North, Range 12 East of the Third Principal Meridian in Cook County, Illinois, lying East of a North and South division line which intersects the North line of the South Half of the South Half of said Northeast Quarter perpendicular at a point 891.99 feet West of the Northeast corner thereof (said point also being the Northwest corner of "Oriole Park Village Third Addition" a subdivision of part of the East Half of the South Half of the South Half of said Northeast Quarter) and which intersects the South line of said South Half of the South Half of said Northeast Quarter at a point 862.43 feet West of the Southeast corner thereof; Excepting from the aforesaid parcel of land the "Oriole Park Village Third Addition" being a subdivision of part of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12. Also excepting from the aforesaid parcel of land the East 33 feet of that part of the South Half of the South Half of the Northeast Quarter lying North of the South 4.63 chains of said Northeast Quarter. Also excepting from the aforesaid parcel of land the East 50 feet and the South 40 feet of that part lying East of the aforesaid dividing line of the South 4.63 chains of said Northeast Quarter. Commencing at a point in the North line of the South Half of the South Half of the Northeast Quarter of said Section 12 which is 891.99 feet West of the Northeast corner thereof (said point being also the Northwest corner of "Oriole Park Village Third Addition" a subdivision of part of the East Half of the South Half of the South Half of said Northeast Quarter); thence South along the West line of said "Oriole Park Village Third Addition Subdivision" and making an angle of 90° with the North line of the South Half of the South Half of the Northeast Quarter a distance of 73.00 feet to the Point of Beginning for said parcel of land; thence continuing along the Southerly prolongation of the West line of "Oriole Park Village Third Addition Subdivision" a distance of 547.51 feet to a line 40 feet North of and parallel with the South line of said Northeast Quarter; thence East along the aforesaid parallel line a distance of 814.17 feet (as measured on said parallel line) to the West line of the East 50 feet of said Northeast Quarter; thence North along a line 50 feet West of and parallel with the East line of said Northeast Quarter a distance of 265.54 feet to the North line of the South 4.63 chains of said Northeast Quarter; thence East along the North line of the South 4.63 chains of said Northeast Quarter a distance of 17.02 feet to a point in a line 33 feet West of and parallel with the East line of said Northeast Quarter; thence North along the aforesaid parallel line a distance of 355.61 feet to the North line of the South Half of the South Half of said Northeast Quarter; thence West along the aforesaid North line a distance of 205.34 feet; thence Southwesterly along the arc of a circle convex to the Southeast having a radius of 33 feet a distance of 61.69 feet to a point of tangency with a line; thence Northwesterly along said tangent a distance of 18.10 feet to the East line of Lot 1 in "Oriole Park Village Third Addition Subdivision"; thence South along the East line of said Lot 1 and making an angle of 72°-53'-35" with the last described tangent (as measured from Southeast to South) a distance of 46.77 feet to the South line of said Lot 1; thence West along the South line of Lots 1 to 7 (both inclusive) in said "Oriole Park Village Third Addition Subdivision" a distance of 593.62 feet to the point of Beginning.

PARCEL TWO: The East 184.03 feet of Lot "A" (as measured along the North line of Lot "A") in "Oriole Park Village Second Addition" being a subdivision of part of Lot 4 of A. Hemingway's Subdivision of part of the Southeast Quarter of Section 1 and part of the Northeast Quarter of Section 12; together with parts of Lots 2, 3 and 4 in Assessor's Subdivision of the Northeast Quarter of Section 12, all in Township 40 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

301A9939

18415161

30149939

PARCEL THREE: A parcel of land in the East Half of the South Half of the South Half of the Northeast Quarter of Section 12, Township 40 North, Range 12, East of the Third Principal Meridian lying West of a North and South dividing line which intersects the North line of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12 and perpendicular thereto at a point 891.99 feet West of the Northeast corner thereof (said point being the Northeast corner of "Oriole Park Village Fourth Addition" being a subdivision of part of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12) and which intersects the South line of said East Half of the South Half of the South Half of the Northeast Quarter at a point 862.43 feet West of the Southeast corner thereof and bounded and described as follows: Beginning at the point of intersection of the aforesaid North and South dividing line with the South line of said "Oriole Park Village Fourth Addition Subdivision" (said point being 132 feet South of the Northeast corner of said "Oriole Park Village Fourth Addition Subdivision"); thence West perpendicular to the aforesaid North and South dividing line and along the South line of said "Oriole Park Village Fourth Addition Subdivision" a distance of 324.85 feet to a point in a line which is 132.12 feet East of (as measured along the South line of said "Oriole Park Village Fourth Addition Subdivision") and parallel with the West line of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12; thence Southerly along said parallel line a distance of 223.40 feet to a point in the North line of "Harlem Highland's" being a subdivision of the South 4.63 chains of the East 21.57 chains of the Northeast Quarter of said Section 12; thence East along the North line of said "Harlem Highland's Subdivision" a distance of 334.47 feet to an intersection with the aforesaid North and South dividing line; thence North along said dividing line a distance of 223.22 feet to the Point of Beginning, all in Cook County, Illinois.

PARCEL FOUR: A parcel of land in the East Half of the South Half of the South Half of the Northeast Quarter of Section 12, Township 40 North, Range 12, East of the Third Principal Meridian comprising all those lots, parts of lots and vacated streets and alleys of "Harlem Highland's" being a subdivision of the South 4.63 chains of the East 21.57 chains of the Northeast Quarter of said Section 12, lying West of a North and South dividing line which intersects the North line of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12 and perpendicular thereto at a point 891.99 feet West of the Northeast corner thereof (said point being the Northeast corner of "Oriole Park Village Fourth Addition" being a subdivision of part of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12) and which intersects the South line of said East Half of the South Half of the South Half of said Northeast Quarter at a point 862.43 feet West of the Southeast corner thereof and bounded and described as follows: Beginning at the point of intersection of the aforesaid North and South dividing with the North line of said "Harlem Highland's Subdivision" (said point being 355.22 feet South of the Northeast corner of said "Oriole Park Village Fourth Addition Subdivision"); thence West along the North line of said "Harlem Highland's Subdivision" a distance of 334.47 feet to a point in a line which is 132.12 feet East of (as measured along the South line of said "Oriole Park Village Fourth Addition Subdivision") and parallel with the West line of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12; thence Southerly along said parallel line a distance of 265.54 feet to a point in a line 40 feet North of (by rectangular measurement) and parallel with the South line of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12; thence East along said parallel line a distance of 345.93 feet to an intersection with the aforesaid North and South dividing line; thence North along said dividing line a distance of 265.29 feet to the point of beginning, all in Cook County, Illinois.

19 415 161

30149939

30149939

PARCEL FIVE: A parcel of land (taken as one tract) comprising Lots 1 to 8 (both inclusive) (excepting from said Lots the North 56 feet thereof) in "Oriole Park Village Fourth Addition" being a subdivision of part of the East Half of the South Half of the South Half of the Northeast Quarter of Section 12, Township 40 North, Range 12, East of the Third Principal Meridian, Lot 9 (except the North 56 feet thereof) and except that part of said Lot 9 lying West of a line 56 feet East of and parallel with the East line of North Oketo Avenue (as measured along the South line of "Oriole Park Village Fourth Addition Subdivision")

Also parts of Lots 62, 66, 67, 68 and 69, all of Lots 63, 64 and 65, that part of the East and West 20 foot wide vacated alley lying between said lots, all lying West of a line 132.12 feet East of (as measured along the South line of said "Oriole Park Village Fourth Addition Subdivision") and parallel with the West line of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12, and a strip of land 16 feet wide (as vacated by Ordinance passed June 24, 1960 under Document #17981462) lying West of and adjoining the West line of the aforesaid Lots 65 to 69 (both inclusive) in "Harlem Highland's" being a subdivision of the South 4.63 chains of the East 21.57 chains of the Northeast Quarter of said Section 12

Also the East 59.10 feet of the West 132.12 feet (as measured along the South line of "Oriole Park Village Fourth Addition Subdivision") of the East Half of the South Half of the South Half of the Northeast Quarter of said Section 12, lying South of the South line of the aforesaid "Oriole Park Village Fourth Addition Subdivision" and lying North of the North line of the aforesaid "Harlem Highland's Subdivision", all in Cook County, Illinois.

18 415 161

Address: New Heights - Foster Shopping Center
Chicago, IL

PIN: 12-12-231-023, 029, 024

~~12-12-215-042~~

12-12-210-020, 021

12-12-211-018, 019

12-12-213-014

Cook County Clerk's Office