

UNOFFICIAL COPY



Eugene "Gene" Moore Fee: \$58.00  
Cook County Recorder of Deeds  
Date: 08/19/2003 04:00 PM Pg: 1 of 5

SUBORDINATION, NON-DISTURBANCE AND  
ATTORNMENMENT AGREEMENT

THIS AGREEMENT, made this 15th day of August, 2003 by and between **7-ELEVEN, INC.**, a Texas corporation ("Tenant") with offices at PO Box 711, Dallas, TX 75221-0711 and **BANK OF CLARK COUNTY** ("Mortgagee") with offices at 1400 Washington Street, Suite 200, Vancouver, Washington 98660 and **Patricia Honan and Danny Louis Allen dba Trapac Inc.** ("Landlord") with offices at 2800 7<sup>th</sup> Street, Oakland, California 94607.

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WITNESSETH:

WHEREAS, Mortgagee has executed a loan to Landlord in the original principal amount of \$1,600,000.00, as evidenced by a promissory note (the "Promissory Note") to Mortgagee dated August 15, 2003;

WHEREAS, Landlord, as security for the Promissory Note, has executed and delivered to Mortgagee a Mortgage/Deed of Trust dated August 15, 2003 and filed of record by the County Clerk of Cook County, State of Illinois on 8/19/03, in Official Record Book \_\_\_\_\_, at Page \_\_\_\_\_ (the "Mortgage"), which Mortgage constitutes a first and prior lien against certain real property including the property more particularly described in Exhibit A, attached hereto and made a part hereof (the "Premises");

0323134160

WHEREAS, pursuant to that certain Shopping Center Lease dated August 18, 2000, evidenced by that certain Memorandum of Lease filed of record by the County Clerk of Cook County, State of Illinois on September 9, 2000, as Document No. 00750508, (the "Lease"), Landlord has leased the Premises to 7-Eleven, Inc., as Tenant,

WHEREAS, Tenant agrees to subordinate the Lease and its interest in the Premises to the lien of the Mortgage and to attorn to Mortgagee; and

WHEREAS, in return, Mortgagee agrees to assure Tenant of its ongoing and undisturbed peaceful possession of the Premises covered by the Lease (the "Demised Premises");

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NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, Mortgagee and Tenant and Landlord hereby agree and covenant as follows:

1. Subordination. The Lease, and the rights of Tenant in, to and under the Lease and the Demised Premises, are hereby subjected and subordinated to the lien of the Mortgage, and to any and all renewals, modifications and the extensions thereof.

2. Tenant Not To Be Disturbed. So long as Tenant is not in default (beyond any applicable cure period) in the payment of rent or other amounts as set forth in the Lease, or in

Box  
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the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Demised Premises and Tenant's rights and privileges under the Lease, during the term of the Lease or any extensions or renewals thereof, shall not be diminished or interfered with by Mortgagee, and Tenant's occupancy of the Premises shall not be disturbed by Mortgagee for any reason, whatsoever during the term of the Lease or any such extension or renewal thereof. Also, Mortgagee agrees not to join Tenant as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Lease.

3. Tenant to Attorn to Lender. If a) Mortgagee shall become the owner of the Demised Premises or b) the Demised Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage or c) the Demised Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct Lease between the then owner of the Demised Premises and Tenant, and Tenant hereby attorns to Mortgagee or any other such owner as its Landlord, said attornment to be effective and self operative without the execution of any further instruments. Tenant shall be under no obligation to pay rent to Mortgagee, or any such other owner, until Tenant receives written notice from Mortgagee, or any such other owner, that it has succeeded to Landlord's interest under the Lease upon which notice Tenant shall be entitled to rely.

4. Leasehold Improvements and Business Fixtures. Mortgagee agrees that it will not claim any right, title or interest in and to any leasehold improvements and/or business fixtures installed upon the Demised Premises by Tenant pursuant to the terms of the Lease.

5. Landlord Default. Tenant shall copy Mortgagee at the address set forth herein any notice to Landlord of the occurrence of any default or event of default by Landlord under the Lease which, with the passage of time or otherwise, would give Tenant the right to cancel or terminate the Lease, or right of offset or abatement of rent, and Tenant will grant to Mortgagee up to 45 days or a reasonable time (not to exceed 45 days) in which to cure Landlord's default, provided Mortgagee notifies Tenant of its intention to cure such default within twenty (20) days of receipt of Tenant's notice of Landlord's default. Tenant agrees that it will not terminate or cancel the Lease on account of such default until such notice to Mortgagee has been given, and Mortgagee has had the opportunity to cure any such default. Should Mortgagee fail to so notify Tenant of Mortgagee's intent to cure Landlord's default within said twenty (20) days, then Tenant shall have all available rights and remedies (including the right to cure Landlord's default) under the Lease, at law and/or in equity. It is expressly understood and agreed that the above shall not be deemed to create any obligation of Mortgagee to cure any such default or defaults.

6. Rental Payments. Until such time as Tenant is otherwise notified in writing by Mortgagee, it shall make all rental payments under the Lease to Landlord as provided therein.

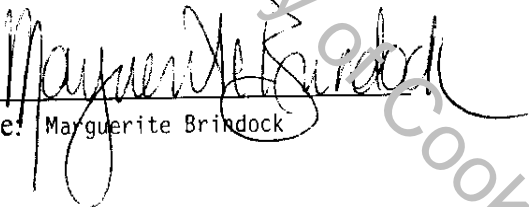
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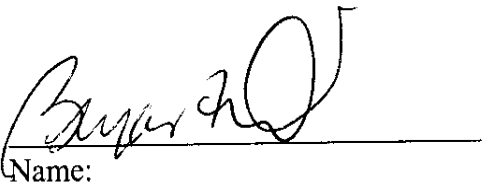
7. Landlord Joinder. Landlord hereby agrees to the subordination and attornment effected hereunder upon the terms stated herein.

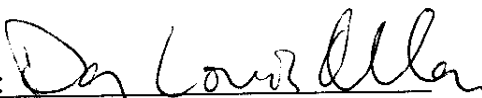
8. Successors and Assigns. This agreement and each and every covenant, agreement and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto and their representatives, successors and assigns.

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

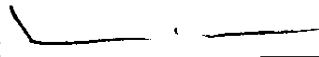
WITNESS:

  
Name: Marguerite Brindock

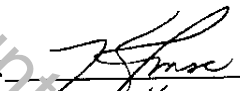
  
Name:

By:   
Danny Louis Allen

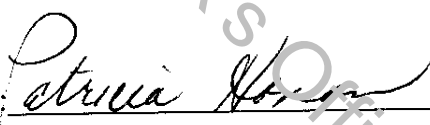
TENANT:  
7-ELEVEN, INC.

By:   
Name: David Holland  
Its: Assistant Secretary

MORTGAGEE:  
BANK OF CLARK COUNTY

By:   
Name: KENNETH INASE  
Its: SVP + CEO

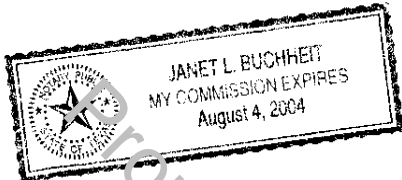
LANDLORD

By:   
Patricia Honan

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STATE OF TEXAS  
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 6th day of August, 2003 by David Hlland of 7-ELEVEN, INC.

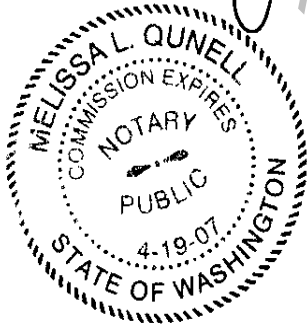


Janet L. Buchheit

Printed Name: Janet L. Buchheit  
Notary Public/Justice of the Peace  
My commission expires: August 4, 2004

STATE OF Washington  
COUNTY OF Clark

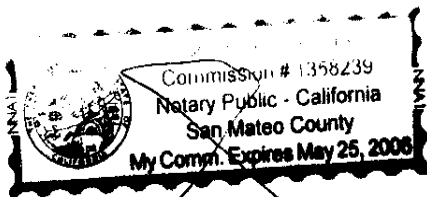
The foregoing instrument was acknowledged before me this 14th day of August, 2003 by Kenneth Imse of Bank of Clark County



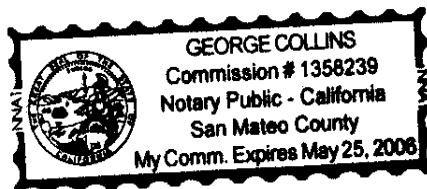
Melissa L. Qunell  
Printed Name: Melissa L. Qunell  
Notary Public/Justice of the Peace  
My commission expires 4/19/07

STATE OF California  
COUNTY OF San Mateo

The foregoing instrument was acknowledged before me this 15th day of August, 2003 by Danny Louis Allen and Patricia Huan



George Collins  
Printed Name: George Collins  
Notary Public/Justice of the Peace  
My commission expires 5/25/06



**UNOFFICIAL COPY****EXHIBIT A**

20733981

**THE PREMISES****LEGAL DESCRIPTION:****PARCEL 1:**

THAT PART OF LOT 4 (EXCEPT THE NORTHEASTERLY 50 FEET, MEASURED AT RIGHT ANGLES) LYING, EAST OF THE WEST LINE OF SECTION 16 AND NORTH OF THE SOUTH LINE OF LOT 3 EXTENDED EAST, IN KRUSE'S SUBDIVISION OF LOT 14 IN HODGE'S SUBDIVISION OF PART OF SECTIONS 16 AND 17, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

THAT PART OF LOT 1 (EXCEPT THE NORTHEASTERLY 50 FEET, MEASURED AT RIGHT ANGLES) IN KRUSE'S SUBDIVISION AFORESAID, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 (WEST OF PRIVATE ROADWAY) FOR A POINT OF BEGINNING; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 1, 50 FEET; THENCE SOUTHERLY TO THE SOUTHERLY LOT LINE OF LOT 1 TO A POINT 84 FEET WESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 1 (WEST OF PRIVATE ROADWAY); THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 1 FOR A DISTANCE OF 84.00 FEET TO THE SOUTHEAST CORNER OF LOT 1; THENCE NORTHEASTERLY ALONG THE EASTERLY LINE OF LOT 1 (AS SHOWN BY PLAT RECORDED JUNE 22, 1906 IN BOOK 91 OF PLATS, PAGE 38 AS DOCUMENT NO. 3883465) TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

**PARCEL 3:**

THE PRIVATE ROADWAY EASTERLY OF LOTS 1, 2 AND 3 IN KRUSE'S SUBDIVISION AFORESAID, AS SHOWN ON PLAT RECORDED JUNE 22, 1906 IN BOOK 91 OF PLATS, PAGE 38 AS DOCUMENT NO. 3883465, ALL IN COOK COUNTY, ILLINOIS.

**PERMANENT INDEX NUMBER:**

09-16-300-002-0000  
 09-16-300-005-0000  
 09-16-300-007-0000  
 09-16-300-008-0000

*OR*  
 Prepared by & mail to:  
 Bank of Clark County  
 1400 Washington #200  
 Vancouver WA 98666-1725