

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY:

Bennett L. Cohen
Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062



Doc#: 0422546129
Eugene "Gene" Moore Fee: \$36.00
Cook County Recorder of Deeds
Date: 08/12/2004 12:35 PM Pg: 1 of 7

AND AFTER RECORDING MAIL TO:

MB FINANCIAL BANK N.A.
ATTN: ~~WAXSPRO~~ AUDREY MAJKA
990 N. YORK ROAD
ELMHURST, IL 60126

PROPERTY:

6200 N. Western Avenue (Unit A)

Chicago, IL 60659

PIN'S: 13-01-215-020 and -021; 13-01-215-024 and -026

COLLATERAL ASSIGNMENT OF TENANT'S RIGHTS UNDER REAL ESTATE LEASE

This Collateral Assignment of Tenant's Rights Under Real Estate Lease (this "Assignment"), made as of this 29th day of July, 2004 by Washland Partnership, an Illinois general partnership (the "Assignor") in favor of MB Financial Bank, N.A., a national banking association (hereinafter referred to as "Assignee").

WITNESSETH:

WHEREAS, Assignor has executed a promissory note (hereinafter referred to as "Note") of even date herewith, payable to the order of Assignee in the principal amount of Four Million Three Hundred Fifty Thousand and 00/100 (\$4,350,000.00) Dollars; and

WHEREAS, to secure the payment of the Note, Assignor has executed and delivered to the Assignee, among other documents, a certain commercial security agreement dated the date hereof between Assignor as debtor and the Assignee as secured party (such agreement, as amended or restated from time to time, the "Security Agreement"), and

WHEREAS, Assignor is currently a tenant of the premises commonly known as 6200 N. Western Avenue, Chicago, Illinois and legally described in Exhibit A attached hereto (the "Premises") pursuant to that certain lease dated April 24, 2002 between National Shopping Plazas, Inc. as landlord (the "Landlord") and Assignee as tenant (such lease, as amended, renewed or restated from time to time, the "Lease"); and

WHEREAS, Assignor desires to further secure the payment of the principal and interest due under the Note, including any and all modifications, renewals, amendments, extensions and refinancings thereof, the payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of this Assignment, the Note, the Security Agreement, and the performance and discharge of each and every obligation, covenant and agreement of Assignor contained herein, in the Note, in the Security Agreement or in any other loan document executed in connection with the Note (hereinafter collectively referred to as the "Loan Obligations");

NOW, THEREFORE, for and in consideration of the foregoing, and for valuable consideration, the receipt whereof is hereby acknowledged, and to secure the payment and performance of the Loan Obligations, Assignor does hereby collaterally assign, transfer and grant unto Assignee all of Assignor's rights and interests under the Lease of every kind and description, all on the following terms and conditions:

UNOFFICIAL COPY

1. Assignor represents to Assignee that Assignor is the sole tenant under the Lease; that the Lease is valid and enforceable and has not been altered, modified or amended in any manner whatsoever except for any alteration, modification or amendment provided to the Assignee; that neither the Assignor, nor to Assignor's knowledge, the Landlord, is in default under any of the terms, covenants or conditions of the Lease.

2. Assignor will not, without the prior written consent of the Assignee (i) enter in any other assignment of any of its rights under the Lease or sublet any portion of the Premises, or (ii) agree to any amendment to or change in the terms of the Lease.

3. Assignor, without cost, liability or expense to Assignee, shall (i) at all times promptly and faithfully abide by, discharge, and perform all of the covenants, conditions and agreements contained in the Lease, on the part of the Assignor thereunder to be kept and performed, (ii) secure the performance of all of the covenants, conditions and agreements of the Lease on the part of the Landlord to be kept and performed, and (iii) appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Lease or the obligations, duties or liabilities of Assignor thereunder.

4. Assignor shall promptly provide to Assignee copies of all notices of default that it receives from the Landlord, but in any event, within forty-eight (48) hours of Assignor's receipt of said notice. Any notices required or permitted hereunder shall be in writing and shall be given by facsimile transmission to the fax number set forth below with receipt confirmed, followed by a copy sent by certified first class mail, postage prepaid, return receipt requested or by overnight courier and addressed as follows:

If to Tenant:	Washland Partnership 5645 W. Roosevelt Road Cicero, Illinois 60804
with a copy to:	Brian J. Mulhern, P.C. 907 North Elm Street Hinsdale, Illinois 60521
If to Lender:	MB Financial Bank, N.A. 990 North York Road Elmhurst, Illinois 60126 Attn: William Spoo, Regional President Fax No. 630.833.9738
with a copy to:	Cohen, Salk & Huvad, P.C. 630 Dundee Road-Suite 120 Northbrook, Illinois 60062 Attn: Bennett L. Cohen Fax No. 847.480.7882

or to such other address as any party may designate by notice to the other parties.

5. Following an event of default under the Note or Security Agreement or Lease which shall not be cured within any applicable grace period (each an "Event of Default"), Assignor hereby grants Assignee the unconditional right to divest Assignee of its leasehold interest in the Premises

UNOFFICIAL COPY

(hereafter, called the "Divestment") and to permit either Assignee or its designee to take possession of the Premises (but solely as a tenant) and to assume the Lease on the same terms as existed between Assignor and Landlord, and Assignor does hereby appoint irrevocably Assignee its true and lawful attorney in its name and stead (with or without taking possession of the Premises), to take such action as shall be necessary to enable Assignee or its designee to take such possession and effect such assumption of the Assignor's remaining obligations under the Lease. Assignor further covenants and agrees that if Assignee elects the foregoing remedy of Divestment following an uncured Event of Default, Assignor shall, forthwith, upon demand of Assignee, surrender to Assignee and Assignee (or its designee) shall be entitled to take actual possession of the Premises, and Assignee in its discretion may enter upon and take and maintain possession of all or any part of said Premises, together with all documents, books, records, papers, and accounts of Assignor or the then manager of the Premises relating thereto, and may exclude Assignor and their respective agents, or servants, wholly therefrom. Assignor shall fully cooperate with Assignee in the Divestment and shall take such action reasonably required by Assignee to effect the Divestment and any such assumption of the Lease by Assignee or its designee.

6. Notwithstanding any Divestment, Assignor shall remain fully liable to Assignee for repayment of the Note and all other Loan Obligations. In addition, Assignor shall remain liable to Landlord for all monetary obligations which exist prior to or on the date the Assignee or its designee assumes the Assignor's obligations under the Lease.

7. Notwithstanding anything contained in this Assignment to the contrary, Assignee shall be under no obligation to effect a Divestment following an Event of Default and Assignee shall not be liable for any losses, damages or liabilities sustained by Assignor resulting from Assignee's failure to effect a Divestment or to effect an assumption of the Lease, such right being a discretionary right on the part of the Assignee, which Assignee may elect to exercise in its sole discretion following an Event of Default.

This Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises upon Assignee, nor for the carrying out of any of the terms and conditions of the Lease nor shall it operate to make Assignee responsible or liable for any waste committed on the Premises by the Assignor or any other parties or for any dangerous or defective conditions of the Premises, or for any negligence in the management, upkeep, repair, or control of the Premises resulting in loss or injury or death to Assignor, any other tenant, licensee, employee, or stranger.

8. Upon payment in full of the Note and all other Loan Obligations, this Assignment shall be released by Assignee at the expense of Assignor. Assignee may take or release other security for the payment of the Loan Obligations; may release any party primarily or secondarily liable therefor; and may apply any other security held by it to the satisfaction of the Loan Obligations without prejudice to any of Assignee's rights under this Assignment.

9. Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Note, the Security Agreement or any of the other Related Documents (as defined in the Security Agreement), and this Assignment is made without prejudice to any of the rights and remedies possessed by Assignee under the terms of the Note, Security Agreement and all other Related Documents. The right of Assignee to collect said principal sum, interest and all other indebtedness owed by Assignor to Assignee and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with or subsequent to any action taken by it hereunder.

UNOFFICIAL COPY

10. This Assignment and the covenants therein contained shall inure to the benefit of Assignee and any subsequent holder of the Note and shall be binding upon Assignor, its successors and assigns.

11. This document shall be construed and enforced according to the laws of the State of Illinois (exclusive of choice of law principles).

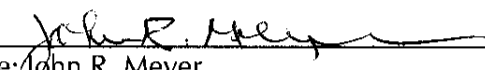
IN WITNESS WHEREOF, the Assignor has executed this Assignment at the day and year first above written.

WASHLAND PARTNERSHIP, an Illinois general partnership,

By: Orlando Trust, its Partner

By: 
Name: George R. Homeyer
Title: Trustee


By: Second Shorewood Trust, its Partner

By: 
Name: John R. Meyer
Title: Trustee

By: Tampa Trust, its Partner

By: 
Name: George R. Homeyer
Title: Trustee

By: Allegan Trust, its Partner

By: 
Name: John R. Meyer
Title: Trustee

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Audrey Majka, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT George R. Homeyer, the Trustee of the Orlando Trust (the "Trust"), a Partner of Washland Partnership, an Illinois general partnership (the "Partnership"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, on behalf of and as a partner of the Partnership, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29th day of July, 2004.



Audrey Majka
Notary Public

My Commission Expires: 5/29/06

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Audrey Majka, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT George R. Homeyer, the Trustee of the Tampa Trust (the "Trust"), a Partner of Washland Partnership, an Illinois general partnership (the "Partnership"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, on behalf of and as a partner of the Partnership, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29th day of July, 2004.



Audrey Majka
Notary Public

My Commission Expires: 5/29/06

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

I, Audrey Majka, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT John R. Meyer, the Trustee of the Second Shorewood Trust (the "Trust"), a Partner of Washland Partnership, an Illinois general partnership (the "Partnership"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, on behalf of and as a partner of the Partnership, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29th day of July, 2004.



Audrey Majka
 Notary Public

My Commission Expires: 5/29/06

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

I, Audrey Majka, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT John R. Meyer, the Trustee of the Allegan Trust (the "Trust"), a Partner of Washland Partnership, an Illinois general partnership (the "Partnership"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, on behalf of and as a partner of the Partnership, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29th day of July, 2004.



Audrey Majka
 Notary Public

My Commission Expires: 5/29/06

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION

6200 N. Western Avenue (Unit A)
Chicago, IL 60659
PIN's: 13-01-215-020 and 021;
13-01-215-024 and 026

PARCEL 1:

LOT 3, (EXCEPT THE NORTH 5 FEET THEREOF) AND LOTS 5, 6, 7, 8 AND 9 (EXCEPT THAT PART THEREOF TAKEN FOR WIDENING OF WESTERN AVENUE) IN BLOCK 1 IN OWNERS SUBDIVISION IN THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 1 THROUGH 7, BOTH INCLUSIVE, IN CORSIGLIA BROS. SUBDIVISION OF LOT 17 IN BLOCK 1 IN OWNERS SUBDIVISION IN THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 1 THROUGH 6, BOTH INCLUSIVE, (EXCEPT THAT PART THEREOF TAKEN FOR WIDENING OF WESTERN AVENUE) IN PETER ZECHR'S SUBDIVISION OF THE SOUTH 181.2 FEET OF THE EAST 331.08 FEET OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.