

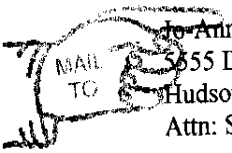
UNOFFICIAL COPY

When recorded, return to:



0436319126

Doc#: 0436319126
Eugene "Gene" Moore Fee: \$46.50
Cook County Recorder of Deeds
Date: 12/28/2004 02:10 PM Pg: 1 of 12



Jo-Ann Stores, Inc.
5555 Darrow Road
Hudson, OH 44236
Attn: Senior Legal Counsel

This instrument was prepared by:
Robert D. Icsman, Esq.
Jo-Ann Stores, Inc.
5555 Darrow Road
Hudson, OH 44236

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF LEASE

This Memorandum of Lease is made as of November 15th, 2004, between Jo-Ann Stores Inc., an Ohio corporation ("Tenant"), 5555 Darrow Road, Hudson, Ohio 44236 and Simon Property Group (Illinois), L.P., an Illinois limited partnership ("Landlord"), located at National City Center, P.O. Box 7033, Indianapolis, IN 46207.

Reference is made to a Lease dated November 15th, 2004, between Landlord and Tenant (the "Lease"). Pursuant to Section 33 of the Lease, the parties desire to create this instrument. The parties acknowledge the following:

1. The Premises consists of approximately 34,050 square feet in the shopping center known as Lakeview Plaza located at Orland Park, Illinois, as legally described on Exhibit A attached hereto and incorporated by reference herein (the "Shopping Center"). The location of the Premises in the Shopping Center is shown on the Site Plan attached as Exhibit B and incorporated by reference herein.
2. Subject to the terms of the Lease, the initial term of the Lease commences on the Commencement Date (as defined in the Lease) and ends on the last day of the 10th Lease Year (as defined in the Lease). Tenant has options to extend the initial term for four additional periods of five years each.
3. Landlord has granted Tenant the exclusive right to sell the following items in the Shopping Center: Subject to the existing leases within the Shopping Center as of the date of the Lease, the sale of any of the following: fabrics of all kinds, goods sold by the yard, upholstery materials, patterns, knitting supplies, needlepoint, macramé, artificial flowers and accessories, arts and crafts materials and supplies, finished crafts, picture frames, custom framing, scrapbooks and scrapbooking supplies and materials, yarns and all types of notions, sewing machines, sewing machine furniture, fabric care items, products, accessories and services related to all of the foregoing and other items and services customarily offered for sale by a fabric and arts and crafts store. Provided, however, that the foregoing provisions shall not apply to (a) any tenant of the Shopping Center that does not devote more

UNOFFICIAL COPY

than 10% of its sales area to the sale of items comprising the Protected Use; (b) any existing tenant or occupant (or its successors or assigns) of the Shopping Center to the extent such tenant's lease (as the same exists on the date hereof) would permit such tenant (or its successors or assigns) to engage in the Protected Use without Landlord's consent, but this clause (b) shall not apply if Landlord permits an expansion of such tenant's premises for a use that would violate this Section 14 if Landlord reasonably and legally may refuse to grant such permission; (c) a discount department store; (d) furniture store; (e) Pier 1 Imports; or (f) store whose primary business is the sale of linens or home accessories.

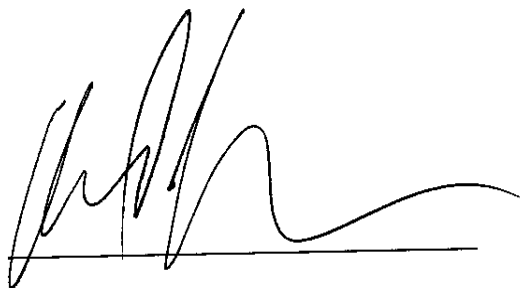
4. Landlord has agreed that the Shopping Center or any portion thereof will not be used as or for the following: for the uses listed on Exhibit X (except Tenant is not bound by item 50; instead, Sections 2(p), 11 and 23 of the Lease govern future uses of Tenant and its assigns) or for any of the following: a library; animal clinic (except as incidental to a national retailer of pet supplies, such as Petco or Petsmart); animal boarding or kennel (except less than 24-hour stays as part of national retailer of pet supplies, such as Petco or Petsmart); karate studio; gymnasium; gun shop; health club or spa.
5. Landlord claims title to the Shopping Center by virtue of a deed recorded on _____, 19__/20__ in Volume ____, Page ____ of the Recorder's Office of _____ County, _____.
6. This Memorandum of Lease is intended solely to establish the Lease and the rights of Tenant in respect of the Premises as matters of public record. Reference is hereby made to the Lease for a complete description of all of the rights, duties, and obligations of the parties in respect of the Premises and the use and the occupancy thereof. In the event of any inconsistency between the Lease and this Memorandum of Lease, the Lease shall control.

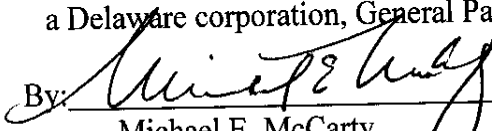
In witness whereof, each party has caused this instrument to be signed by its duly authorized representative.

Signed in the presence of:

"Landlord"
Simon Property Group (Illinois), L.P.,
an Illinois limited partnership

By Charles Mall Company Limited Partnership,
a Maryland limited partnership, General Partner
By Simon Property Group (Delaware), Inc.,
a Delaware corporation, General Partner

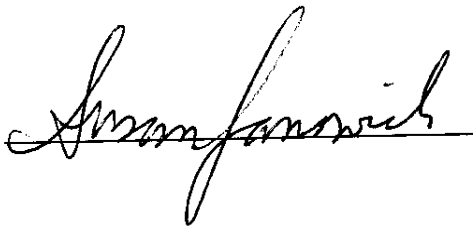


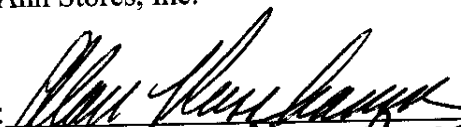
By: 
Michael E. McCarty,
President, Community Center Group

UNOFFICIAL COPY

Signed in the Presence of:

“Tenant”
Jo-Ann Stores, Inc.



By: 
Print Name: Alan Roskamm
Title: PRESIDENT

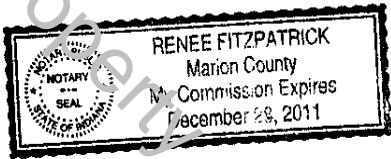
Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF Indiana)
)SS
COUNTY OF Marion)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Simon Property Group (Illinois), L.P., an Illinois limited partnership, by Charles Mall Company Limited Partnership, a Maryland limited partnership, General Partner, by Simon Property Group (Delaware), Inc., a Delaware corporation, General Partner, by Michael E. McCarty, President of Community Center Group, who did sign the foregoing instrument on behalf of the corporation and that the same is his free act and deed of the corporation and personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Indianapolis, Indiana, this 15th day of November, 2004.



Renee Fitzpatrick
NOTARY PUBLIC

STATE OF OHIO)
) SS.
COUNTY OF SUMMIT)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Jo-Ann Stores Inc., an Ohio corporation, by Alan Roskamm, its President, who acknowledged that he/she did sign the foregoing instrument on behalf of the corporation, and that the same is the free act and deed of the corporation and his/her free act and deed personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Hudson, Ohio, this 19th day of Oct., 2004.

Bonita Marie Caesar
NOTARY PUBLIC

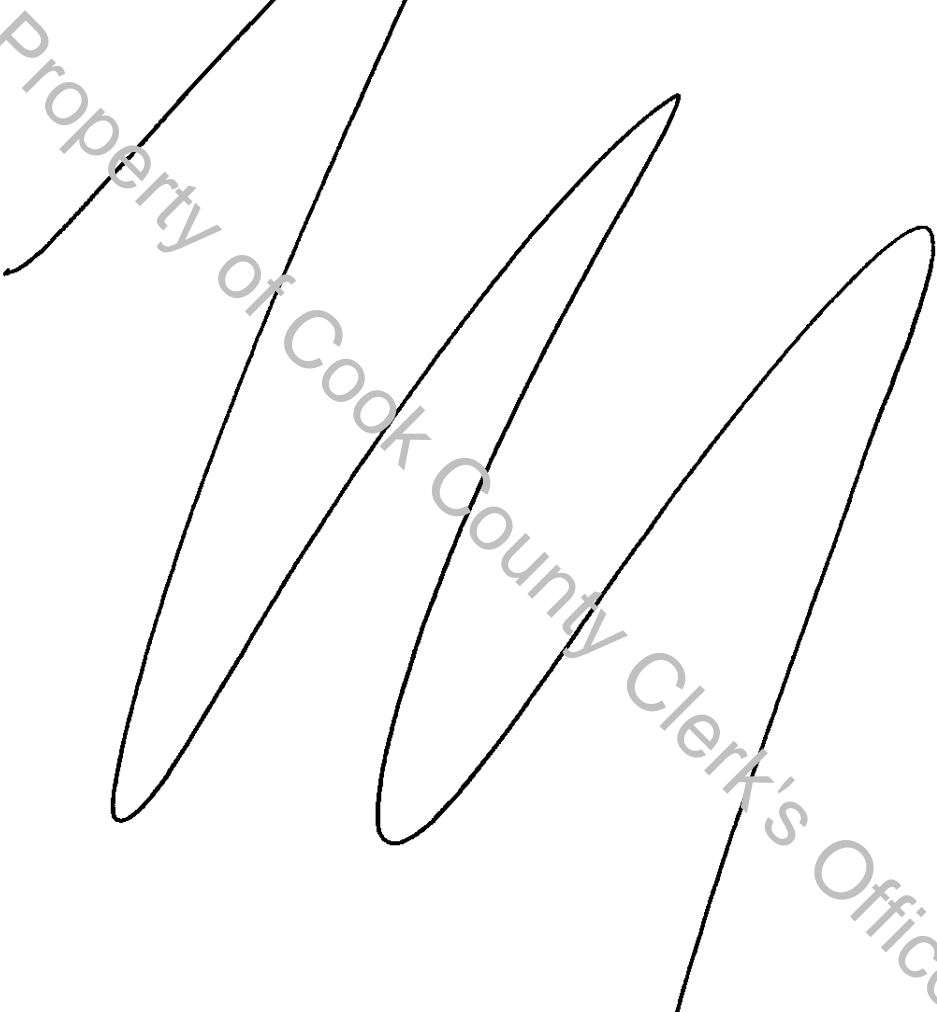
BONITA MARIE CAESAR
Notary Public - State of Ohio
Commission Expires 8/17/07

UNOFFICIAL COPY

EXHIBIT A

Legal Description of the Shopping Center

Property of Cook County Clerk's Office



UNOFFICIAL COPY

EXHIBIT A

A tract of land in the South 1/2 of the Southeast 1/4 of Section 16, Township 36 North, Range 12 East of the Third Principal Meridian, situated in Cook County, Illinois and described as follows:

Beginning at the intersection of the North line of the South 1/2 of said Southeast 1/4 and the West right-of-way line of La Grange Road as recorded under Document 87018113; thence South 00 degrees 11 minutes 55 seconds East 940.29 feet along said West line; thence South 89 degrees 48 minutes 44 seconds West 172.00 feet; thence South 00 degrees 11 minutes 55 seconds East 48.85 feet; thence South 89 degrees 48 minutes 44 seconds West 3.00 feet; thence South 00 degrees 11 minutes 55 seconds East 289.00 feet to the North right-of-way line of West 159th Street (U. S. Route 6); thence South 89 degrees 48 minutes 44 seconds West 1075.62 feet along last said North line; thence North 00 degrees 11 minutes 55 seconds West 544.42 feet; thence South 89 degrees 48 minutes 05 seconds West 166.00 feet; thence North 00 degrees 11 minutes 55 seconds West 725 feet to the North line of the South 1/2 of said Southeast 1/4; thence North 89 degrees 51 minutes 45 seconds East 1416.62 feet along last said North line to the point of beginning.

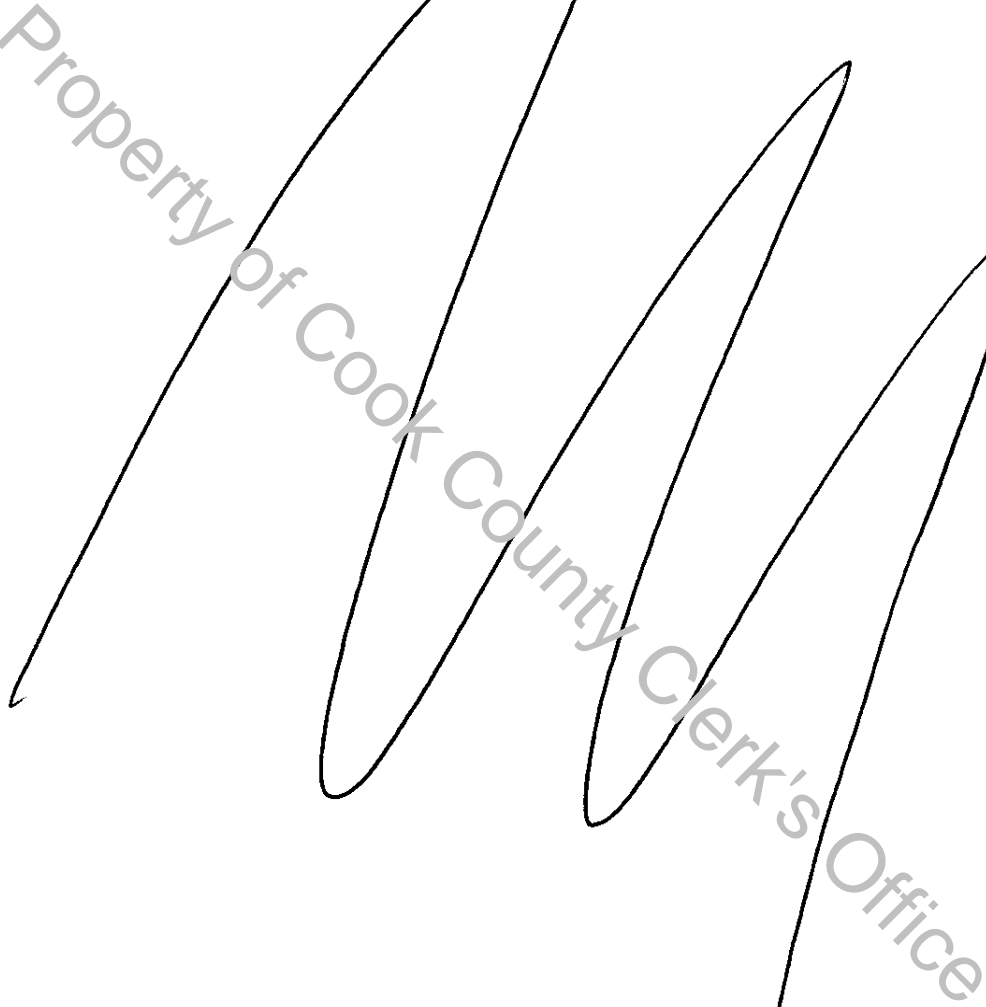
Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

Site Plan of Shopping Center

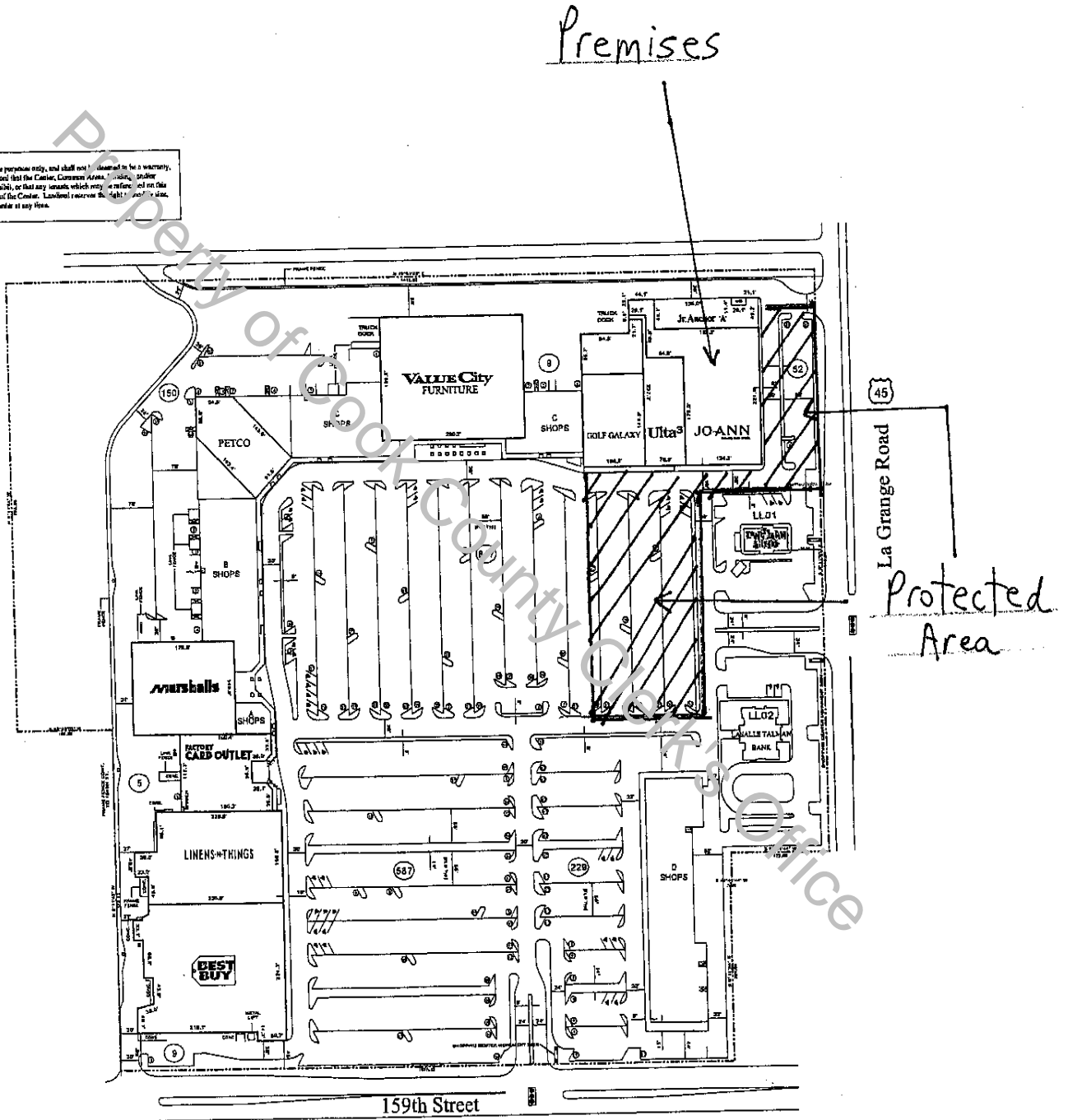
Property of Cook County Clerk's Office



UNOFFICIAL COPY

EXHIBIT B

This exhibit is provided for illustrative purposes only, and shall not be deemed to be a warranty, representation or agreement by Landlord that the Center, Common Areas, including, under various uses as illustrated on this exhibit, or that any tenants which may be referred to on this exhibit will at any time be occupants of the Center. Landlord reserves the right to modify the use, configuration and occupants of the Center at any time.



PROJECT DATA

ULTAS	12,793
BEST BUY	52,945
LINENS-N-THINGS	35,338
MARSHALLS	27,246
FACTORY CARD OUTLET	18,791
GOLF GALAXY	18,000
PEICO	15,200
JRANCHOR'A	8,530
VALUE CITY	49,728
JOANN FABRICS	34,056

TOTAL DEPARTMENT STORE GLA 270,388

TOTAL SMALL SHOPS GLA 92,690

TOTAL GLA 363,056

TOTAL PARKING SPACES: 1888

GLA S.F./SPACE: 3.20

Modified: July 25, 2003

Development Site Plan

0 75 150 DP25

Lake View Plaza
159th & Lagange
Orland Park IL 60462
CORP # 2852

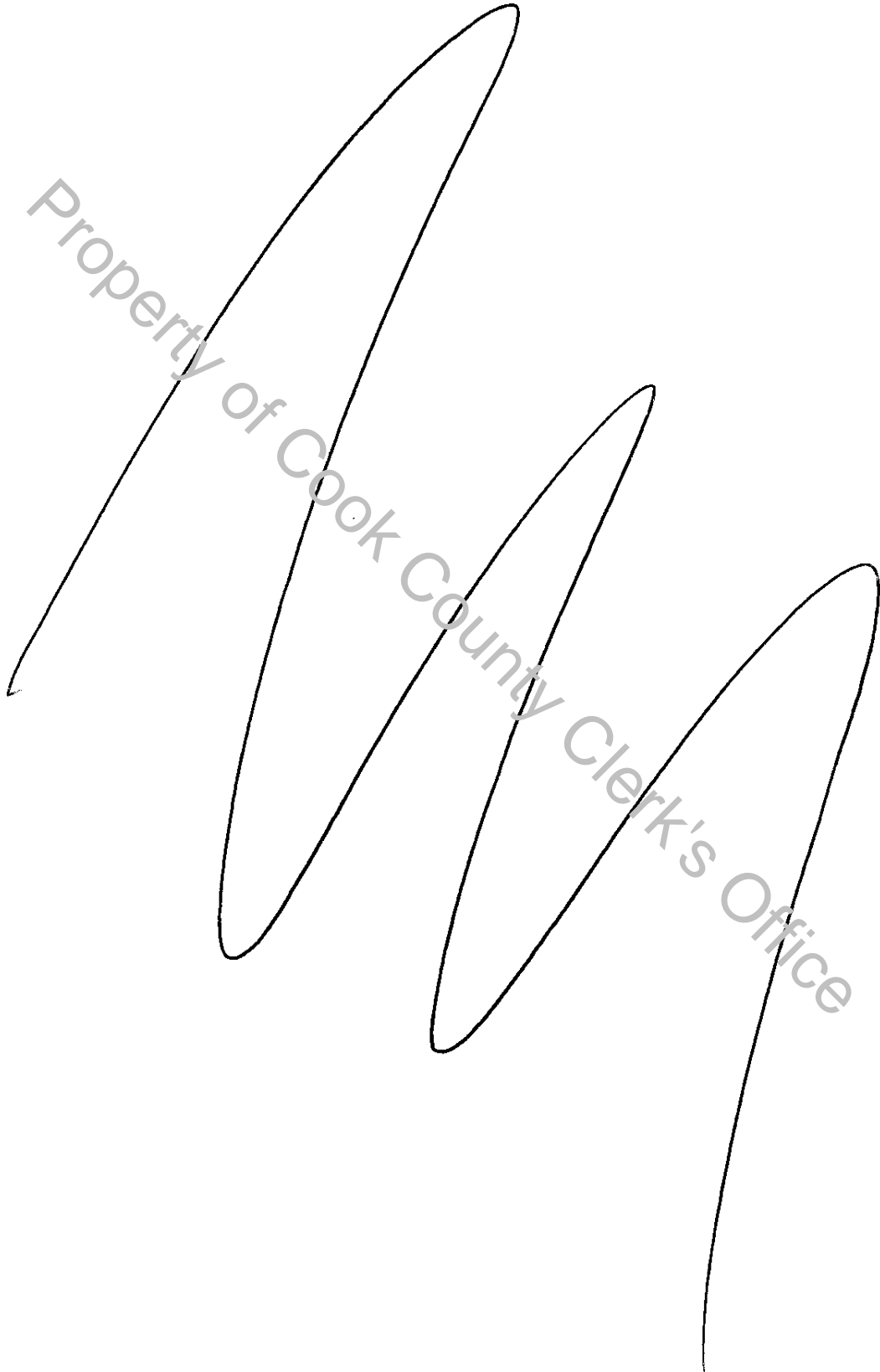
SIMON™

UNOFFICIAL COPY

EXHIBIT X

List of Prohibited Uses from Lease

Property of Cook County Clerk's Office

A large, stylized handwritten scribble in black ink, consisting of several overlapping, elongated loops that resemble a cursive signature or a large 'M' shape. It is positioned diagonally across the center of the page, partially overlapping the watermark text.

UNOFFICIAL COPY

LAKE VIEW PLAZA

PROHIBITED USES FOR THE SHOPPING CENTER

1. For any manufacturing operation; as a factory; for any industrial usage; as a warehouse, processing or rendering plant; for any establishment selling cars (new or used), trailers, mobile homes; billiard parlor, amusement center or game room, "disco", flea market, massage parlor, or carnival; "off-track" betting operation; for the sale or display of pornographic materials;
2. No public or private auctions or fire, "going out of business", bankruptcy or similar sales or auctions;
3. Office purposes, except as incidental to the operation of the Premises;
4. Any purpose which is not a lawful retail sale or service purposes and uses incidental hereto;
5. As a food supermarket, theatre of any kind, bowling alley, skating rink, amusement park, carnival, meeting hall, "disco" or other dance hall, sporting event or other sports facility, auditorium or any other like place of public assembly (collectively, "Public Assembly Uses"); the operation of a restaurant other than the Out Buildings;
6. For any of the following purposes: manufacturing; warehousing; theater; liquor store (not including drug stores which sell liquor by the bottle); laundromat; amusement park; mobile home, boat or automobile sales or repair; bowling alley; skating rink; carnival; meeting hall; banquet facility; disco or other dance hall; night club; sporting event or facility; off-track betting establishment; flea market; massage parlor; auditorium; for the sale or display of pornographic material; restaurant, unless such restaurant contains less than 3,000 square feet of floor area and serves liquor or alcoholic beverages only incidentally to its restaurant food service operation; bar or tavern; bingo or card parlor; and types of uses that are substantially similar to the foregoing;
7. For use as a grocery store or supermarket;
8. No premises in the Shopping Center shall be used for any non-retail purposes (offices, storage, repairs and alterations incidental to retailing, barber shops, beauty salons, banks, small loan offices and a gasoline service stations, not being deemed non-retail);
9. No premises in the Shopping Center shall be used for any entertainment purposes such as a cinema, theater, skating rink, bowling alley, bar, discotheque, dance hall, amusement gallery, poolroom, health club, massage parlor, carnival, meeting hall, and auditorium or any like place of assembly, sporting event or other sports facility, or off-track betting facility. The foregoing does not prohibit the sale of alcoholic beverages in restaurants;
10. For a billiard parlor, flea market, massage parlor, a so-called "off-track betting" operation, a store specializing in the sale of drug paraphernalia or for the sale or of pornographic materials; for a store creating excessive noise, litter or odor; theater, skating rink, bowling alley or arcade/pinball or video or electronics game room within the Shopping Center. No restaurant shall be located within 400 linear feet of the nearest demising walls of the Linens N Things premises;

UNOFFICIAL COPY

11. Landlord shall not lease space for the principal use of shoe stores exceeding in leased area 6% of the gross leasable area of the Shopping Center;
12. The operation of a business commonly known as a discount house;
13. A prescription drug store or principally as a discount health and beauty aids store;
14. Adult bookstores or cinemas or establishments for the sale of drug related paraphernalia;
15. Tire, battery and automobile accessories stores;
16. Automobile or truck facility used for paint shop or garages, whether for body or mechanical repair, or for dispensing of petroleum products;
17. Storage, use, or disposal, whether temporary or permanent, by Obligor, its agents, representatives, employees, licensees, tenants, subtenants or business invitees, or by any other person, of Hazardous Substances;
18. Automobile or truck washing facility;
19. Amusement or game rooms or similar establishments, including without limitation the use of pinball machines, electronic games and similar apparatus, except as an ancillary use;
20. Funeral home;
21. Laundromat;
22. Manufacturing;
23. Warehousing;
24. Amusement park;
25. Mobile home, boat or automobile sales and repair;
26. Bowling alley;
27. Skating rink;
28. Carnival or festival;
29. Meeting hall or night club;
30. Banquet facility;
31. Disco or other dance hall;
32. Off-track betting establishment or other sporting event facility;
33. Flea market;
34. Private or commercial massage parlor;
35. Auditorium;
36. For the sale or display of pornographic material except as an incidental use to a permitted use, e.g. magazines in a drug store;
37. Bar or tavern;
38. Bingo or card parlor;
39. Adult entertainment center or social club;
40. Adult bookstore;
41. Theatre;
42. Second-hand or surplus store or consignment shop;
43. Church;
44. Funeral parlor;
45. Automobile dealership;
46. Shooting gallery;
47. Antique store;
48. Auction house;

UNOFFICIAL COPY

49. As an auditorium, meeting hall, school or other place of public assembly, gymnasium or dance hall; for Bingo or similar games of chance, or as a massage parlor, video game arcade, bowling alley, skating rink, car wash, car repair or car rental agency, night club or adult book or adult video store;
50. Any future exclusives or prohibited uses (except the Permitted Use herein) applicable to the Premises not in effect on the date of this Lease, but in effect prior to tenant's proposed use.

Property of Cook County Clerk's Office