

UNOFFICIAL COPY



Doc#: 0704622023 Fee: \$38.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/15/2007 01:08 PM Pg: 1 of 8

MAIL RECORDED ORIGINAL TO:

Legal Department (Loc. 33705)
7-Eleven, Inc.
2711 North Haskell Avenue
Dallas, Texas 75204-2906

Parcel Pin #: 17-16-219-008
109 83405

Prepared by:
Fennemore Craig, P.C.
3003 North Central Avenue
Suite 2600
Phoenix, AZ 85012-2913

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement ("Agreement"), made and entered into as of this 2nd day of January, 2006 by and among **7-ELEVEN, INC.**, a Texas corporation ("7-Eleven"), with principal offices at 2711 North Haskell Avenue, Dallas, Texas 75204-2906, **MONY LIFE INSURANCE COMPANY**, a New York Corporation, formerly known as The Mutual Life Insurance Company of New York, ("Lender"), whose address is c/o MMA Realty Capital, LLC 10475 Park Meadows Drive, Suite 500, Littleton, CO 80124-5433, and **216 WEST JACKSON, L.L.C.**, an Illinois limited liability company ("Borrower"), whose address is 20 East Jackson Blvd., Suite 400, Chicago, Illinois 60604;

WITNESSETH:

WHEREAS, Lender has made a loan to Borrower in the principal amount of Eight Million and No/100 Dollars (\$8,000,000.00), as evidenced by a promissory note (the "Promissory Note") to Lender dated September 10, 1998.

WHEREAS, Borrower, as security for the Promissory Note, has executed and delivered to Lender a Mortgage dated September 10, 1998 and filed of record by the County Clerk of Cook County, State of Illinois, on September 14, 1998, as Document No. 98818450 (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");

WHEREAS, pursuant to that certain Building Lease dated May 18, 2006 ("Lease"), evidenced by that certain Memorandum of Lease recorded or to be recorded

UNOFFICIAL COPY

in the Official Records of Cook County, Illinois, Borrower has leased approximately 2,575 square feet of a building located on the Premises more particularly described in Exhibit B attached hereto and made a part hereof (the "Leased Premises") to 7-Eleven;

WHEREAS, 7-Eleven desires to subordinate its leasehold interest to the Mortgage and to be assured of continued occupancy of the Leased Premises subject to the lien of the Mortgage; and

WHEREAS, in return, Lender agrees to assure 7-Eleven of its ongoing and undisturbed peaceful possession of the Leased Premises, regardless of any action taken by Lender under the Mortgage.

NOW THEREFORE, the parties hereby agree as follows:

1. Subordination. The Lease and the rights of 7-Eleven in, to and under the Lease and the Leased Premises, are hereby subjected and subordinated to the lien of the Mortgage and to any and all renewals, modifications and extensions thereof.

2. Non-Disturbance. So long as 7-Eleven is not in default under the Lease (beyond any period given 7-Eleven by the terms of the Lease to cure such default) in the payment of rent or other amounts owed pursuant to the Lease or in the performance of any of the terms, covenants or conditions of the Lease on 7-Eleven's part to be performed, (a) 7-Eleven's possession of the Leased Premises, or any extension or renewal rights therefor in the Lease, shall not be diminished or interfered with by Lender, and (b) Lender will not join 7-Eleven 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. Attornment. If (i) Lender shall become the owner of the Premises, (ii) the Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage, or (iii) the 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 Premises and 7-Eleven, and 7-Eleven hereby attorns to Lender or any other such owner as its lessor, said attornment to be effective and self-operative without the execution of any further instruments. 7-Eleven shall be under no obligation to pay rent to Lender or any such other owner until 7-Eleven receives written notice from Lender or any such other owner that it has succeeded to Borrower's interest under the Lease, upon which notice 7-Eleven shall be entitled to rely.

4. Leasehold Improvements and Business Fixtures. Lender agrees that it will not claim any right, title or interest in and to any leasehold improvements and/or business fixtures installed upon the Leased Premises by 7-Eleven pursuant to the terms of the Lease.

UNOFFICIAL COPY

5. Rental Payments. Until such time as 7-Eleven is otherwise notified in writing by Lender, it shall make all rental payments under the Lease to Borrower as provided therein.

6. Joinder of Borrower. Borrower hereby agrees to the subordination and attornment effected hereunder upon the terms herein stated.

7. 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, as applicable.

8. Counterparts. This Agreement may be executed in any number of Counterparts, all of which taken together shall constitute one and the same instrument, and any person intended to be a signatory hereto may execute this Agreement by signing any such Counterpart.

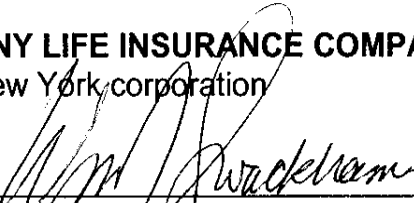
[Signatures Next Page]

UNOFFICIAL COPY

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

"LENDER"

MONY LIFE INSURANCE COMPANY,
a New York corporation

By: 
Name: William J. Swackhammer
Title: Investment Officer II

Property of Cook County Clerk's Office


Attest:



Assistant Secretary


"7-ELEVEN"

7-ELEVEN, INC., a Texas corporation

By: 
Name: Rick Updyke
Title: Vice President

"BORROWER"

216 West Jackson, L.L.C., an Illinois limited liability company

By: 
Name: Lacey Warner
Title: Manager

UNOFFICIAL COPY

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

This instrument was acknowledged before me on December 19, 2006 (date) by JORGE SALAMANCA (name/s of person/s) as MANAGER (type of authority, e.g., officer, trustee, etc.) of 216 West JACKSON, LLC (name of party on behalf of whom instrument was executed).



[Signature]
(Signature of Notary Public)
Name: JORGE SALAMANCA (Print)
Commission No. _____
Commission Expires 06-09-08

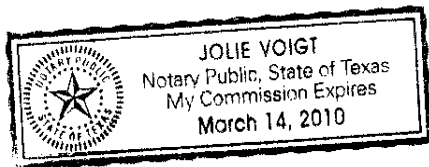
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned, a Notary Public in and for the County and State aforesaid, on this day personally appeared Rick Updyke and J. Donald Stevenson, Vice President and an Assistant Secretary, respectively, of 7-Eleven, Inc., a Texas corporation, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that the same was executed as the act of such corporation for the purposes and consideration therein expressed and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 19th day of December, 2006.

Jolie Voigt
Notary Public

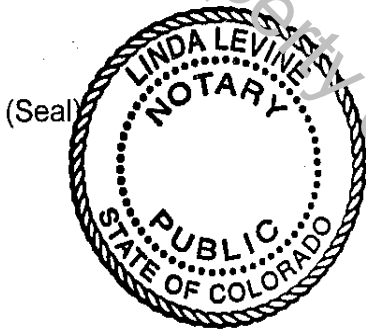
My Commission Expires:



UNOFFICIAL COPY

STATE OF Colorado)
)SS
COUNTY OF Douglas)

This instrument was acknowledged before me on JAN. 2, 2007 (date)
by William J. Swackhamer (name/s of person/s) as Investment Officer (type
of authority, e.g., officer, trustee, etc.) of MANY LIFE INS. CO. (name of party on
behalf of whom instrument was executed).



Linda Levine
(Signature of Notary Public)

Name: Linda Levine (Print)
Commission No. _____
Commission Expires _____

My Commission Expires
03/17/2007

Office of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

Legal Description of the Premises

Lots 18 and 19, 20, 21, 22, 53, 54, 55, 56 and 57 in the Subdivision of Block 92 in School Section Addition, in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

216 W. JACKSON, CHICAGO

TAX# 17-16-219-008

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

Legal Description of the Leased Premises

Approximately 2,575 square feet of retail first floor space in the Building located at 216 West Jackson, Chicago, Illinois, more particularly described in Exhibit A.

Property of Cook County Clerk's Office

