

Doc#: 0707342234 Fee: \$36.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/14/2007 01:34 PM Pg: 1 of 7

This document prepared by and mail to:  
David A. Kallick  
Tishler & Wald, Ltd.  
200 S. Wacker Drive, Ste. 3000  
Chicago, IL 60606  
(312) 876-3800

8371502 DZ MS

**SUBORDINATION, ATTORNMENT  
AND NONDISTURBANCE AGREEMENT**

THIS SUBORDINATION, ATTORNMENT AND NONDISTURBANCE AGREEMENT  
(the "Agreement") is made as of the 5th day of March, 2007, by and between TUSCANY  
WHEELING, L.L.C. (together with its successors and assigns, the "Tenant"), and MIDWEST BANK  
AND TRUST COMPANY (together with its successors and assigns, the "Lender").

**WITNESSETH:**

WHEREAS, PHIL STEFANI, as beneficiary of CHICAGO TITLE LAND TRUST  
COMPANY, as successor trustee to LaSalle Bank National Association, not personally but as  
Trustee under the Trust Agreement dated October 22, 1999 and known as Trust Number 122797  
(together with its predecessors in interest, successors and assigns, the "Landlord"), and Tenant  
executed a certain Store Lease dated November 1, 1999 (as amended, modified, or supplemented  
from time to time the "Lease"), pursuant to which Landlord leased the premises (the "Premises")  
described in the Lease to Tenant for a term of years with extension rights all as more fully described  
in the Lease; and

WHEREAS, Landlord has mortgaged certain real property legally described on Exhibit "A"  
attached hereto and by reference incorporated herein, of which the Premises constitutes a part,  
pursuant to a certain Real Estate Mortgage (the "Mortgage") to the Lender dated March 5, 2007

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and recorded as Document No. 0707342234

herewith, securing the payment of a Secured Promissory Note in the amount of \$1,050,000.00 executed by Landlord payable to the order of Lender (the "Note") upon terms and conditions as more fully set forth in the Note and Mortgage; and

WHEREAS, Tenant desires to insure its peaceful and quiet use and enjoyment of the Premises consistent with the terms and conditions of the Lease; and

WHEREAS, Tenant and Lender are willing to agree that the Lease shall be subject and subordinate to the Mortgage but shall remain in full force and effect in the event that any proceedings are brought involving foreclosure of the Mortgage made by the Landlord covering, or in the event Lender otherwise succeeds to Landlord's interest with respect to, any part of the Premises;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, Tenant and Lender agree as follows:

1. Subordination. The Lease shall be, and the same is hereby, made subject and subordinate to the Mortgage and to all the terms, conditions and provisions thereof.
2. Non-Disturbance. In the event any proceedings are brought by Lender (a) to foreclose the Mortgage or (b) to succeed to the interests of Landlord by foreclosure, deed in lieu thereof or otherwise, and, provided the Tenant is not then in default in the payment of rent or in the performance of any of the terms, conditions or covenants of the Lease, Tenant and Lender agree that the Lease (including any extensions thereof and any rights of first refusal contained therein) shall in accordance with all its terms, covenants and conditions (which are incorporated herein by reference) remain in full force and effect as a direct indenture of lease between Lender and Tenant, with the same force and effect as if originally entered into with Lender. Tenant's possession of the Premises and Tenant's rights and privileges under the Lease and any extensions thereof shall not be diminished, interfered with or disturbed by Lender by such foreclosure under the Mortgage or by any

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such attempt to foreclose or to succeed to the interests of Landlord by foreclosure, deed in lieu thereof or otherwise.

3. Attornment. In the event of any such foreclosure or succession to the interests of Landlord by foreclosure, deed in lieu thereof or otherwise, and the resulting succession to the interests of Landlord by Lender or by any purchaser of said interests through foreclosure sale (which Lender or purchaser shall hereinafter be referred to as the "Successor Landlord"), Tenant shall attorn to and shall be bound to Successor Landlord under all of the terms, covenants and conditions in the Lease for the balance of the term of the Lease including any extension or extensions thereof, without the execution of any further instrument on the part of the parties hereto.

4. Notices. Whenever in this Agreement or in any proceedings involving the foreclosure or attempt to foreclose pursuant to the Mortgage, it shall be required or desired that notice or demand be given or served by any party, such notice or demand shall be in writing and be deemed to have been given or served two business days after being mailed, postage prepaid, by certified or registered mail or when delivered in person and addressed as follows:

To Tenant:                   Tuscany Wheeling, L.L.C.  
1033 W. Van Buren, 5<sup>th</sup> Floor  
Chicago, IL 60607  
Attn: Phil Stefani

To Lender:                   Midwest Bank and Trust Company  
501 W. North Avenue  
Melrose Park, IL 60160  
Attn: Daniel R. Bechtold, Vice President

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With a copy to: David A. Kallick  
Tishler & Wald, Ltd.  
200 S. Wacker Drive, Suite 3000  
Chicago, Illinois 60606

or to such other addresses as may hereinafter be designated by any party by proper notice to the others.

5. Successors and Assigns. The obligations and covenants of the parties hereto shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, personal and legal representatives, successors and assigns.


6. Release. This Agreement shall remain in full force and effect until such time as the Mortgage is released of record.

7. Recording. The parties hereto agree that this Agreement may be recorded in the public records of Cook County, Illinois.

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

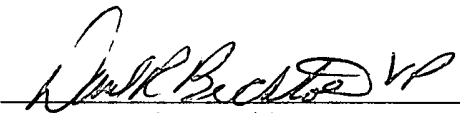
TENANT:

TUSCANY WHEELING, L.L.C.

By:   
Name: Phil Stelani  
Title: Manager

LENDER:

MIDWEST BANK AND TRUST COMPANY

By:   
Its Vice President

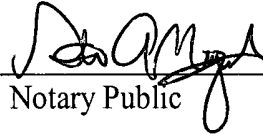
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## TENANT ACKNOWLEDGMENT

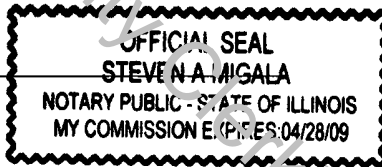
STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

I, Steven A. Migala, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Phil Stefani, personally known to me to be the Manager of Tuscany Wheeling, L.L.C. and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he or she signed and delivered the said instrument as his or her own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 5<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:



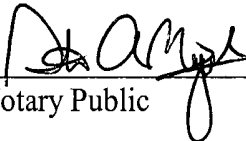
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## LENDER ACKNOWLEDGMENT

STATE OF ILLINOIS     )  
  ) ss  
COUNTY OF COOK     )

I, Steven A. Migala, a Notary Public, do hereby certify that Daniel R. Bechtold, personally known to me to be the Vice President of MIDWEST BANK AND TRUST COMPANY, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, 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 company, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 5<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:



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## EXHIBIT "A"

### LEGAL DESCRIPTION:

#### PARCEL 1:

LOT 1 IN SECOND ADDITION TO ROSEGATE SUBDIVISION, BEING A RESUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF REGISTERED IN OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON DECEMBER 16, 1986 AS DOCUMENT LR3575031, IN COOK COUNTY, ILLINOIS EXCEPT THAT PART OF LOT 1 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 23 DEGREES 03 MINUTES 50 SECONDS WEST, ALONG THE NORTHEASTERLY LINE OF SAID LOT, BEING ALSO THE SOUTHWESTERLY LINE OF MILWAUKEE AVENUE, 304.48 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 87 DEGREES 39 MINUTES 10 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 8.55 FEET TO THE POINT OF INTERSECTION WITH A LINE DRAWN 8.00 FEET SOUTHWESTERLY (AS DRAWN PERPENDICULARLY) OF AND PARALLEL WITH THE NORTHEASTERLY LINE OF LOT 1 AFORESAID; THENCE SOUTH 23 DEGREES 03 MINUTES 50 SECONDS EAST, ALONG SAID PARALLEL LINE, 287.80 FEET; THENCE SOUTH 33 DEGREES 28 MINUTES 05 SECONDS WEST 17.90 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF LOT 1 AFORESAID; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID SOUTH LINE 25.00 FEET TO THE POINT OF BEGINNING.

#### PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR VEHICULAR INGRESS AND EGRESS OVER THAT PART OF LOT 2 IN SECOND ADDITION TO ROSEGATE SUBDIVISION DESCRIBED AS ROAD EASEMENT AREA NUMBER 3 IN EXHIBIT 'C' TO GRANT OF EASEMENT BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 20, 1961 AND KNOWN AS TRUST NUMBER 16433 AND CASA LUPITA RESTAURANTS, INC., DATED DECEMBER 22, 1986 AND FILED DECEMBER 30, 1986 AS DOCUMENT LR3579770

ADDRESS: 550 S. Milwaukee Avenue  
Wheeling, IL 60091

P.I.N. 03-12-116-028-0000