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re: 285138



Doc#: 1027456001 Fee: \$54.00
Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 10/01/2010 08:43 AM Pg: 1 of 10

This Instrument Prepared by and
When Recorded Return To:

Name: Barry C. Kessler & Associates
Address: 275 Milwaukee Avenue
Suite 300
City: Glenview
State & Zip: Illinois 60025

Space Above This Line For Recorder's Use

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN TENANT'S LEASEHOLD INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF M.B. FINANCIAL BANK, N.A.

THIS AGREEMENT, made as of the 25th day of August, 2010, by and between Chicago Title Land Trust Company, an Illinois Corporation, ("Chicago Title") as Successor Trustee to LaSalle Bank National Association, as successor trustee to American National Bank & Trust Company of Chicago, as trustee under Trust Agreement dated August 9, 1979 and known as Trust Number 7565 legal title holder to the property herein described (referred to as "Owner;") Suburban Downs, Inc., an Illinois Corporation (referred to as "Tenant;") Hawthorne Race Course, Inc., an Illinois Corporation (referred to as "Borrower;") and M.B. Financial Bank, N.A., Mortgagee (referred to as "Lender.")

WITNESSETH

WHEREAS, Owner executed the Mortgage and Security Agreement with Assignment of Rents and Leases (referred to as "Mortgage") dated as of August 25, 2010 in favor of Lender, to secure Note 2 in the principal amount of Eight Million and no/100 (\$8,000,000) Dollars, and Note 7 in the principal amount of Three Million Five Hundred Thousand and no/100 (\$3,500,000.00) Dollars which Mortgage was tendered for recording upon execution thereof at the official records of the Cook County Recorder of Deeds with respect to the real property identified on Exhibit A attached hereto and incorporated herein by reference (referred to as the "Property".)

WHEREAS, Owner, as lessor, has entered into a lease with Tenant, covering the

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Property, for the term and upon and subject to the provisions therein set forth (referred to as the "Lease;") and

WHEREAS, Lender extended a credit facility to Borrower, an entity affiliated with Tenant, which said credit facility is guaranteed by Tenant, and with respect to which it is a condition precedent to the extension and continuance of said credit facility that the Lease and the leasehold estate created thereby together with all rights and privileges of Tenant thereunder shall unconditionally be and remain at all times subordinate and inferior to the lien or charge upon the Property by the Mortgage in favor of Lender;

WHEREAS, it is to the mutual benefit of the parties to the Lease that Lender extend the credit facilities to Borrower and in consideration thereof, Owner and Tenant are amenable to subordinating the Lease and the interest of Tenant to the Mortgage; and

WHEREAS, Tenant has requested that Lender agree not to disturb Tenant's possessory rights in the Property in the event Lender should foreclose the Mortgage; provided that Tenant is not then in default under the Lease; and provided further that Tenant attorns to Lender or the purchaser at any foreclosure or trustee's sale of the Property.

NOW THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce the Lender to extend and continue the extension of credit facilities to Borrower, it is hereby agreed as follows:

1. Subordination. Notwithstanding anything to the contrary set forth in the Lease, the Lease and the leasehold estate created thereby and all of Tenant's rights thereunder shall be and shall at all times remain subject, subordinate and inferior to the Mortgage and the lien thereof, and all rights of Lender thereunder and to any and all renewals, modifications, consolidations, replacements and extensions thereof.
2. Nondisturbance. If it becomes necessary to foreclose the Mortgage, Lender shall neither terminate the Lease nor join Tenant in summary or foreclosure proceeding so long as Tenant is not in default under any of the terms, covenants, or conditions of the Lease.
3. Attornment. Tenant shall attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, any transferee who acquires the Premises by deed in lieu of foreclosure, and the successors and assigns of such purchaser(s), as Tenant's lessor for the unexpired balance (and any extensions, if exercised) of the term of the Lease on the same terms and conditions set forth in the Lease.
4. Acknowledgment and Agreement by Tenant. Tenant acknowledges and agrees that:
 - (a) Lender would not make the Loan without this Agreement;

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(b) Tenant consents to and approves the Mortgage and the agreements evidencing and securing the Loan; and

(c) Lender, in making any Loan disbursements to Borrower, is under no obligation or duty to oversee or direct the application of the proceeds of such disbursements, and such proceeds may be used by Borrower for purposes other than improvement of the Property.

(d) From and after the date hereof, in the event of any act or omission by Owner which would give Tenant the right, either immediately or after the lapse of time, to terminate the Lease or to claim a partial or total eviction, Tenant will not exercise any such right:

(i) until it has given written notice of such act or omission to Lender; and

(ii) until the same period of time as is given to Owner under the Lease to cure such act or omission shall have elapsed following such giving of notice to Lender and following the time when Lender shall have become entitled under the Mortgage to remedy the same.

(e) Tenant has notice that the Lease and the rent and all other sums due thereunder have been assigned or are to be assigned to Lender as security for the Loan secured by the Mortgage. In the event that Lender notifies Tenant of a default under the Mortgage and demands that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise required pursuant to such notice.

(f) Tenant shall send a copy of any notice or statement under the Lease to Lender at the same time such notice or statement is sent to Owner.

(g) Tenant has no right or option of any nature whatsoever, whether pursuant to the Lease or otherwise, to purchase the Property, or any portion thereof or any interest therein, and to the extent that Tenant has had, or hereafter acquires, any such right or option the same is hereby acknowledged to be subject and subordinate to the Mortgage and is hereby waived and released as against Lender.

(h) This Agreement satisfies any condition or requirement in the Lease relating to the granting of a nondisturbance agreement.

5. Foreclosure and Sale. In the event of foreclosure of the Mortgage, or upon a sale of the Property pursuant to the trustee's power of sale contained therein, or foreclosure, then:

(a) So long as Tenant complies with this Agreement and is not in default under any of the terms, covenants, or conditions of the Lease, the Lease shall continue in full force and effect as a direct lease between the succeeding owner of the Property and Tenant, upon and subject to all of the terms, covenants and conditions of the Lease, for the balance of the term of the Lease, Tenant hereby agrees to adhere to and accept any such successor owner as Owner under the Lease, and to be bound by and perform all of the obligations imposed by the Lease, and Lender,

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or any such successor owner of the Property, will not disturb the possession of Tenant, and will be bound by all of the obligations imposed on the Owner by the Lease; provided, however, that Lender, or any purchaser at a trustee's or sheriff's sale or any successor owner of the Property, shall not be:

- (i) liable for any act or omission of a prior owner (including Owner);
- (ii) liable for the return of any security deposit unless such deposit has been delivered to Lender, by Owner or is deposited in an escrow fund available to Lender;
- (iii) liable or obligated to expand the Property, pay tenant improvement allowances, construct additional improvements or otherwise expend funds which are capital in nature, other than expenses for ordinary maintenance and repair;
- (iv) liable to reconstruct the improvements on the Property to the extent insurance proceeds are not available therefore;
- (v) liable for any obligation to indemnify or reimburse Tenant, any leasehold mortgagee, or any other third party or any of their respective successors and assigns from and against any loss, liability, damage or cost relating to or arising from the presence of any toxic or hazardous materials on, under or about the Property;
- (vi) liable or bound by any right of first refusal or option to purchase all or any portion of the Property set forth in the Lease;
- (vii) subject to any offsets or defenses which Tenant might have against any prior owner (including Owner);
- (viii) bound by any rent or additional rent which Tenant might have paid in advance to any prior owner (including Owner) for a period in excess of one month or by any security deposit, cleaning deposit or other prepaid charge which Tenant might have paid in advance to any prior owner (including Owner); or
- (ix) bound by any agreement or modification of the Lease made without the prior written consent of Lender.

(b) Upon the written request of either Lender or Tenant to the other given at the time of any foreclosure, trustee's sale or conveyance in lieu thereof, the parties agree to execute a lease of the Premises upon the same terms and conditions as the Lease between Owner and Tenant, which lease shall cover any unexpired term of the Lease existing prior to such foreclosure, trustee's sale or conveyance in lieu of foreclosure.

(c) Lender shall have no responsibility to provide (or liability for not providing) any additional space for which Tenant has any option or right under the Lease unless Lender at its option elects to provide the same and Tenant hereby releases Lender from any obligation it may

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otherwise have to provide the same, and agrees that Tenant shall have no right to cancel the Lease, abate rent or assert any claim against Lender as a result of the failure to provide any option space.

(d) Lender shall have no liability to Tenant or any other party for any conflict between the provisions of the Lease and the provisions of any other lease affecting the Property, including, but not limited to, any provisions relating to renewal options and options to expand, and in the event of such a conflict, Tenant shall have no right to cancel the Lease or take any other remedial action against Lender or action against any other party for which Lender would be liable.

6. Acknowledgment and Agreement by Owner. Owner, as owner under the Lease and mortgagor or trustor under the Mortgage, acknowledges and agrees for itself and its heirs, successor and assigns, that:

(a) This Agreement does not:

(i) constitute a waiver by Lender of any of its rights under the Mortgage; and/or

(ii) in any way release Owner from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Mortgage;

(b) The provisions of the Mortgage remain in full force and effect and must be complied with by Owner; and

(c) In the event of a default under the Mortgage, Tenant shall pay all rent and all other sums due under the Lease to Lender as provided in this Agreement.

7. No Obligation of Lender. Lender shall have no obligation or incur any liability with respect to the erection or completion of any improvements on the Property or for completion of any improvements for Tenant's use and occupancy, either at the commencement of the term of the Lease or upon any renewal or extension thereof or upon the addition of additional space, pursuant to any expansion rights as may be contained in the Lease.

8. Notice. All notices hereunder shall be in accordance with the provisions of Paragraph 8.01 of the Mortgage.

9. Miscellaneous.

(a) This Agreement supersedes any inconsistent provisions of the Lease.

(b) Nothing contained in this Agreement shall be construed to derogate from or in any way impair or affect the lien and charge or provisions of the Mortgage.

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(c) Lender shall have no obligation nor incur any liability with respect to any warranties of any nature whatsoever, whether pursuant to the Lease or otherwise, including, without limitation, any warranties respecting use, compliance with zoning, Owner's title, Owner's authority, habitability, fitness for purpose or possession.

(d) In the event that Lender shall acquire title to the Property, Lender shall have no obligation, nor incur any liability, beyond Lender's then equity interest, if any, in the Property, and Tenant shall look exclusively to such equity interest of Lender, if any, in the Property for the payment and discharge of any obligations imposed upon Lender hereunder or under the Lease, and Lender is hereby released and relieved of any other obligations hereunder and under the Lease.

(e) This Agreement shall inure to the benefit of the parties hereto, their respective successors and permitted assigns; provided however, that in the event of the assignment or transfer of the interest of Lender, all obligations and liabilities of Lender under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Lender's interest is assigned or transferred; and provided further that the interest of Tenant under this Agreement may not be assigned or transferred without the prior written consent of Lender.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

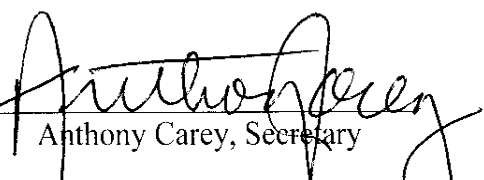
(g) The recitals above are incorporated into and made a part of this agreement as if full restated herein.

Tenant:
Suburban Downs, Inc.

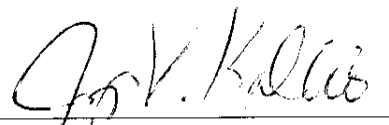
Owner:
Chicago Title Land Trust Company
as Trustee u/t/a dated August 9, 1979
known as Trust No. 7565

By: 
Timothy S. Carey, President

By: 
ASST. VICE PRESIDENT

By: 
Anthony Carey, Secretary

LENDER:
MB Financial Bank, N.A.

By: 
Jerry V. Kallio,
First Vice President

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and are not personally, nor personally liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss
 COUNTY OF COOK)

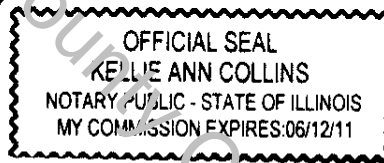
The undersigned, a Notary Public, in and for the State and County aforesaid, does hereby certify that before me this day personally appeared Timothy S. Carey and Anthony Carey known to me to be the President and Secretary of Hawthorne Race Course, Inc., and President and Secretary of Suburban Downs, Inc., the Borrower, who acknowledged, executed and delivered this instrument as their free, voluntary and duly authorized act in behalf of the Company.

Given under my hand and Notarial Seal this 26th day of August, 2010.

Kellie Ann Collins
 Notary Public

Name: Kellie Ann Collins

My Commission Expires: June 12, 2011



This Instrument Drafted By And
 Should Be Returned To:
 Barry C. Kessler
 Barry C. Kessler & Associates
 1275 Milwaukee Avenue
 Suite 300
 Glenview, IL 60025
 847.803.3400

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

ASST. VICE PRESIDENT

Margaret O Donnell Trust Administrator of Chicago Title Land Trust Company who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trust administrator, appeared before me this day in person and acknowledged that (s)he signed and delivered this aforesaid instrument as his/her free and voluntary act and as the free and voluntary act of said Trust Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 27th day of August, 2010

.....
"OFFICIAL SEAL"
ELVIR SINIKOVIC
Notary Public, State of Illinois
My Commission Expires 05/27/13
.....

Notary Public

Name: SINIKOVIC, ELVIR

My Commission Expires: 5/27/2013

This Instrument Drafted By And
Should Be Returned To:
Barry C. Kessler
Barry C. Kessler & Associates
1275 Milwaukee Avenue
Suite 300
Glenview, IL 60025
847.803.3400

Property of Cook County Clerk's Office

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EXHIBIT A

PARCEL 1:

ALL THAT PART OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL (EXCEPT THE 20 FEET WIDE RAILROAD SWITCH TRACK RIGHT OF WAY CONVEYED TO THE AMERICAN TAR PRODUCTS COMPANY, INC., BY DEED DATED JUNE 25, 1921, AND RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS IN BOOK 16967, PAGE 272 AS DOCUMENT NUMBER 7212576, ALSO EXCEPT THE EAST 50 FEET LYING NORTH OF THE SOUTH LINE OF OGDEN DITCH ALSO CALLED WEST FORK OF SOUTH BRANCH OF THE CHICAGO RIVER) LYING NORTH OF A LINE DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT ON THE EAST LINE OF SOUTHEAST QUARTER OF SAID SECTION, 1,213.18 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE WEST AT AN ANGLE OF 90 DEGREES SOUTH TO WEST, A DISTANCE OF 40 FEET; THENCE SOUTHWESTERLY ON A LINE WITH AN ANGLE OF 164 DEGREES 24 MINUTES MEASURED FROM EAST TO SOUTHWEST FROM LAST DESCRIBED LINE, A DISTANCE OF 259.98 FEET; THENCE SOUTHWESTERLY ON A LINE WITH A DEFLECTION OF 36 MINUTES TO LEFT FROM LAST DESCRIBED LINE, A DISTANCE OF 849.63 FEET; THENCE SOUTHWESTERLY ON A LINE WITH A DEFLECTION OF 17 MINUTES TO THE LEFT FROM LAST DESCRIBED LINE, A DISTANCE OF 234.76 FEET; THENCE SOUTHWESTERLY ON A LINE WITH A DEFLECTION OF 4 DEGREES, 28 MINUTES 15 SECONDS TO THE RIGHT, FROM LAST DESCRIBED LINE, A DISTANCE OF 210.14 FEET THENCE SOUTHWESTERLY ON A LINE WITH A DEFLECTION OF 2 DEGREES, 54 MINUTES, 30 SECONDS TO THE RIGHT FROM LAST DESCRIBED LINE, A DISTANCE OF 482.83 FEET; THENCE SOUTHWESTERLY ON A LINE WITH A DEFLECTION OF 6 MINUTES 52 SECONDS TO THE LEFT FROM THE LAST DESCRIBED LINE, A DISTANCE OF 411.74 FEET; THENCE SOUTHWESTERLY ON A LINE WITH A DEFLECTION OF 3 DEGREES, 13 MINUTES 30 SECONDS TO THE LEFT FROM THE LAST DESCRIBED LINE, A DISTANCE OF 259.35 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER 606.821 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTH EAST QUARTER IN COOK COUNTY, ILLINOIS

PARCEL 2:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SOUTHEAST QUARTER OF SECTION 33, WHICH IS 1174.48 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION AND RUNNING THENCE NORTH ALONG SAID EAST LINE OF THE SOUTHEAST QUARTER A DISTANCE OF 38.70 FEET TO A POINT 1213.18 FEET NORTH OF SAID SOUTHEAST CORNER; THENCE WEST PERPENDICULAR TO SAID EAST LINE OF SOUTHEAST QUARTER A DISTANCE OF 40 FEET; THENCE SOUTHWESTERLY ON A LINE WITH AN ANGLE OF 164 DEGREES 24 MINUTES, MEASURED FROM EAST TO SOUTHWEST FROM LAST DESCRIBED LINE, A DISTANCE OF 259.98 FEET TO A POINT WHICH IS 290.41 FEET (MEASURED PERPENDICULAR WEST OF SAID EAST LINE OF THE SOUTHEAST QUARTER AND THENCE EASTERLY A DISTANCE OF 292.08 FEET TO THE POINT OF BEGINNING; EXCEPTING FROM THE ABOVE DESCRIBED LAND THE EAST 50 FEET THEREOF FALLING IN CICERO AVENUE, IN COOK COUNTY, ILLINOIS.

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LOTS 45 AND 45 IN HAWTHORNE MANOR SUBDIVISION NO. 1 IN THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

A STRIP OF LAND 20.00 FEET WIDE AND 1705.1 FEET LONG IN THE SOUTHEAST ¼ OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF SAID SOUTHEAST ¼, 957 FEET SOUTH OF THE NORTHWEST CORNER THEREOF; THENCE SOUTH ALONG SAID WEST LINE 1705.1 FEET TO THE SOUTHWEST CORNER OF SAID ¼ SECTION;; THENCE EAST 20 FEET; THENCE NORTH PARALLEL WITH SAID WEST LINE 1705.1 FEET; THENCE WEST 20 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE SOUTH 606.82 FEET OF THE ABOVEDESCRIBED LAND IN COOK COUNTY, ILLINOIS.

PARCEL 4:

THAT PART OF THE NORTH ½ OF THE SOUTH ½ OF BLOCK "A" (EXCEPT THE EAST 80.00 FEET AND EXCEPT THE WEST 8.00 FEET) IN CALVIN F. TAYLOR'S SUBDIVISION OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF WEST 37TH STREET AND NORTH OF THE NORTH LINE OF WEST 38TH STREET, IN COOK COUNTY, ILLINOIS.

PIN Numbers: 16-33-322-010-0000
 16-33-400-001-0000
 16-33-400-005-0000
 16-33-400-040-0000

Property Address: 3501 South Laramie Avenue
 Stickney, Illinois 60804