



Doc#: 1120041018 Fee: \$48.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 07/19/2011 10:37 AM Pg: 1 of 7

CTIC 8838183

RECORDING REQUESTED BY, AND  
WHEN RECORDED RETURN TO:

Gina Fox  
Leonard, Street and Deinar  
150 South 5th Street, Suite 2300  
Minneapolis, MN 55402  
(612)335-1500

**SUBORDINATION AND NON-DISTURBANCE AGREEMENT**  
(Mortgage)

This Subordination and Non-Disturbance Agreement (the "Agreement") is made and entered into this 29<sup>th</sup> day of June, 2011, by and between Blazin Wings, Inc., a Minnesota corporation ("Tenant"), and Lakeside Bank, an Illinois banking corporation ("Lender"), and Berwyn Gateway Partners, LLC, an Illinois limited liability company ("Landlord").

**RECITALS**

**WHEREAS**, Landlord and Tenant executed that certain Ground Lease Agreement dated April 20, 2011, concerning certain Premises therein described located on a parcel of real estate (as the same may be amended or modified from time to time, the "Lease"), a legal description of which is attached hereto and incorporated herein by this reference as Exhibit A (said parcel of real estate and the Premises being sometimes collectively referred to herein as the "Property"); and

**WHEREAS**, The Property is subject to a mortgage and an assignment of leases and rents (collectively, the "Mortgage,") recorded June 1, 2011 as Document Nos. 1115212106 and 1115212107, respectively, in the official records of Cook County, Illinois, granted in favor of Lender by Landlord as the fee owner of the Property; and

**WHEREAS**, it is a condition to said loan that said Mortgage shall be and remain at all times a lien or charge upon the Property, prior and superior to the Lease and to the leasehold estate created thereby; and

**WHEREAS**, the parties hereto desire to assure Tenant's possession and control of the

**BOX 333-CT**

S ✓  
P ✓  
S ✓  
SC ✓  
INT ✓

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Property under the Lease upon the terms and conditions therein contained.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed by the parties hereto, the parties hereto do hereby agree as follows:

## AGREEMENT

1. The Lease is and shall be subject and subordinate to the Mortgage, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all future advances made thereunder.

2. Should Lender become the owner of the Property, or should the Property be sold by reason of foreclosure, or other proceedings brought to enforce the Mortgage which encumbers the Property, or should the Property be transferred by deed in lieu of foreclosure, or should any portion of the Property be sold under a trustee's sale, the Lease shall continue in full force and effect as a direct lease between the then owner of the Property covered by the Mortgage and Tenant, upon, and subject to, all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, including any extensions therein. Tenant does hereby agree to attorn to Lender or to any such owner as its landlord, and Lender hereby agrees that it will accept such attornment.

3. Notwithstanding any other provision of this Agreement, Lender shall not be: a) liable for any default of Landlord under the Lease, except as such defaults relate to repair and maintenance obligations of a continuing nature; b) subject to any offsets or defenses which have accrued prior to the date of foreclosure, unless such offsets or defenses are continuing in nature, and except for offsets which are expressly provided for in the Lease; c) bound by any Rent that Tenant may have paid under the Lease more than one month in advance; or d) responsible for the return of any security deposit delivered to Landlord under the Lease and not subsequently received by Lender.

4. If Lender sends written notice to Tenant to direct its Rent payments under the Lease to Lender instead of Landlord, then Tenant agrees to follow the instructions set forth in such written instructions and deliver Rent payments to Lender; however, Landlord and Lender agree that Tenant shall be credited under the Lease for any Rent payments sent to Lender pursuant to such written notice. Landlord hereby consents to the foregoing provision.

5. All notices which may or are required to be sent under this Agreement shall be in writing and shall be sent by first-class certified U.S. mail, postage prepaid, return receipt requested, or by recognized overnight mail delivery, and sent to the party at the address appearing below or such other address as any party shall hereafter inform the other party by written notice:

**UNOFFICIAL COPY**

**Tenant:** Blazin Wings, Inc. c/o  
Buffalo Wild Wings, Inc.  
Attn: Chief Financial Officer  
5500 Wayzata Boulevard, Suite 1600  
Minneapolis, MN 55416

**With a Copy to:** Blazin Wings, Inc.  
5500 Wayzata Boulevard, Suite 1600  
Minneapolis, MN 55416  
Attn: Lease Administration

**Landlord:** Berwyn Gateway Partners LLC  
Attn: Timothy B. Hague  
418 Clinton Place  
River Forest, IL 60305

**Lender:** Lakeside Bank  
Attn: Ken Kosin  
55 West Wacker  
Chicago, IL 60601

All notices delivered as set forth above shall be deemed effective three (3) days from the date deposited in the U.S. mail, or one (1) day in the case of overnight mail.

6. Said Mortgage shall not cover or encumber and shall not be construed as subjecting in any manner to the lien thereof any of Tenant's improvements or trade fixtures, furniture, equipment or other personal property at any time placed or installed in the Premises. In the event the Property or any part thereof shall be taken for public purposes by condemnation or transfer in lieu thereof or the same are damaged or destroyed, the rights of the parties to any condemnation award or insurance proceeds shall be determined and controlled by the applicable provisions of the Lease.

7. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors in interest, heirs and assigns and any subsequent owner of the Property secured by the Mortgage.

8. Should any action or proceeding be commenced to enforce any of the provisions of this Agreement or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorney's fees.

9. Tenant shall not be joined as a party/defendant in any action or proceeding which may be instituted or taken by reason or under any default by Landlord in the performance of the terms, covenants, conditions and agreements set forth in the Mortgage.

[Signature pages follow.]







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## EXHIBIT A

### LEGAL DESCRIPTION

#### **Legal Description of the Premises:**

THE SOUTH 117.72 FEET OF LOTS 481, 482, AND THE SOUTH 117.72 FEET OF THE EAST 17.11 FEET OF LOT 483, ALL IN BERWYN GARDENS, A SUBDIVISION OF THE SOUTH 1271.30 FEET OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

#### **Legal Description of the Shopping Center:**

Lot H, except the West 22 feet thereof, and Lots 480 through 492, both inclusive, and the 16 foot alley lying between the East line of Harlem Avenue and the West line of Maple Avenue lying North of the North line of Lots 481 through 491, both inclusive, and the vacated 20 foot alley lying between Lots 480 and 492 (exception therefrom that part thereof described in Condemnation Judgment Order entered in Case No. 63C1247 and registered as Document No. 22-67-658) all in Berwyn Gardens, a subdivision of the South 1271.30 feet of the Southwest Quarter of Section 19, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Address: 7130 W. Cermak Road, Berwyn, IL 60402

PINS: 16-19-324-032-0000  
 16-19-324-033-0000  
 16-19-324-034-0000