



Doc#: 1223335057 Fee: \$84.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 08/20/2012 12:13 PM Pg: 1 of 8

After Recording Return To:

*Prepared by*  
The Northern Trust Company  
50 South La Salle Street  
Chicago, Illinois 60603  
Attention: Steve Imhof, Vice President

8893477020K Deed

**SUBORDINATION, NON-DISTURBANCE,  
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT (the "Agreement"), dated for reference purposes only as of this 1st day of July 2012, is made by and among NEWPORT EQUITIES, LLC, an Illinois limited liability company, hereinafter referred to as "Landlord"; DOMINICK'S FINER FOODS, LLC, a Delaware limited liability company, hereinafter referred to as "Tenant"; and THE NORTHERN TRUST COMPANY, hereinafter referred to as "Lender."

**RECITALS**

- A. Landlord and Tenant are the parties to that certain Shopping Center Ground Lease dated February 22, 2001, hereinafter referred to as the "Lease."
- B. Pursuant to the Lease, Tenant leases a portion of that certain real property and the improvements thereon, which real property is more particularly described in Exhibit A, attached hereto and hereby incorporated herein. The real property described in Exhibit A is hereinafter referred to as the "Shopping Center," and the portion thereof demised to Tenant is hereinafter referred to as the "Premises."
- C. Lender is the beneficiary of that certain Amended and Restated Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated Aug 1st, 2012 and recorded on Aug 9, 2012 as Document No. 1222226053 and that certain Leasehold Mortgage dated Aug 1, 2012 and recorded on Aug 9, 2012 as Document No. 1222226056 of the Official Records, hereinafter referred to collectively as the "Mortgage," which is a lien against the Shopping Center.
- D. Tenant has agreed to subordinate its leasehold interest in the Premises to the lien of the Mortgage, provided Lender agrees that Tenant's possession of the Premises and its rights in the Shopping Center under the Lease shall not be disturbed as hereinafter provided.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing Recitals and the terms and conditions hereinafter set forth, the parties agree as follows:

- 1. The Lease is hereby made subject and subordinate to the lien of the Mortgage on the following terms and conditions; provided, however, if there are any inconsistencies between the Lease and the Mortgage, as to Tenant's rights and obligations under the Lease and Landlord's obligations under the Lease, the Lease shall control.

Box 400-CTCC

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# UNOFFICIAL COPY

2. In the event any proceedings are brought for (i) foreclosure and sale or other suit, sale, or proceeding under the Mortgage, or (ii) a deed in lieu of foreclosure, hereinafter referred to collectively as "Foreclosure," Lender agrees, so long as Tenant is not in default under the Lease beyond any period given Tenant to cure such default, after notice required by the Lease, that:

(a) Tenant's possession of the Premises and its rights under the Lease shall not be disturbed by Lender or any successor or assign, or any purchaser at Foreclosure, hereinafter referred to as the "Purchaser;"

(b) Tenant shall not be made a party to any Foreclosure, and the same shall not affect Tenant's rights under the Lease;

(c) The item of the Mortgage shall not encumber any trade fixtures or equipment used by Tenant in its business on the Premises; and

(d) Lender or Purchaser shall assume in writing the landlord's obligations under the Lease as a direct lease from and after the date of Foreclosure, provided that neither Lender nor any Purchaser shall be: (i) liable for any act, omission, or default of any prior landlord (including Landlord) under the Lease, (ii) subject to any right of off-set arising out of a default by Landlord of which Lender did not receive notice and the opportunity to cure pursuant to Section 4 hereof prior to Foreclosure, and (iii) bound by any amendment or other modification of the Lease made without Lender's prior written consent, which consent Lender agrees it shall not unreasonably withhold, condition, or delay so long as such amendment or other modification would not reduce the Lease term or reduce the rent and/or other payment obligations of Tenant thereunder. In the event of Foreclosure, nothing contained in clause (i) of this Section 2(d) shall be deemed to release Lender or Purchaser from the obligation to cure an on-going default by Lessor of which Lender received notice and the opportunity to cure pursuant to Section 4 hereof prior to Foreclosure.

3. Tenant shall attorn to Lender or Purchaser upon Foreclosure and shall recognize Lender or Purchaser, as the case may be, as the landlord under the Lease.

4. Tenant agrees to give Lender notice of any default of Landlord under the Lease at the same time it gives Landlord such notice, and Tenant further agrees that Lender shall have the right, but not the obligation, to cure such default of Landlord within the same, concurrent period given Landlord to cure such default.

5. Landlord and Tenant agree that, upon receipt of written notice from Lender of a default by Landlord under the Mortgage, Tenant shall make all further payments of rent due under the Lease directly to Lender.

6. Tenant hereby consents to the existence of the Mortgage, and Lender hereby consents to the existence of the Lease.

7. Any and all notices to be given pursuant to this Agreement shall be in writing and mailed by United States certified mail, return receipt requested, postage prepaid, and addressed as follows:

If Lender:       The Northern Trust Company  
                           50 South La Salle Street  
                           Chicago, Illinois 60603  
                           Attention: Steve Imhof, Vice President

# UNOFFICIAL COPY

If to Tenant: **Dominick's Finer Foods, LLC**  
c/o Safeway Inc.  
5918 Stoneridge Mall Road  
Pleasanton, CA 94588  
Attention: Real Estate Law  
Re: Dominick's Store #10-1964

Copy to:  
**Dominick's Finer Foods, LLC**  
711 Jorie Blvd.  
Oakbrook, IL 60523  
Attention: Real Estate  
Re: Dominick's Store #10-1964

If Landlord: **Newport Equities, LLC**  
830 S. Buffalo Grove Rd., Suite 106  
Buffalo Grove, IL 60089  
Re: Dominick's Store #10-1964

8. This Agreement shall be binding upon and inure to the benefit of the respective successors, transferees, and assigns of the parties hereto. In the event any party hereto finds it necessary to employ legal counsel or to bring an action at law or other proceedings against any other party to enforce any of the terms, covenants or conditions hereof, or to appeal and/or enforce any judgment rendered in such action or proceeding, the prevailing party shall be paid all reasonable attorneys' fees, as determined by the court and not the jury, and in the event any judgment is secured by such prevailing party, all such attorneys' fees shall be included in any such judgment in such action or proceedings.

IN WITNESS WHEREOF, the parties hereto have entered into this Subordination, Non-Disturbance, and Attornment Agreement as of the day and year first set forth above.

Lender:

**THE NORTHERN TRUST COMPANY**

By: Allen F. Imhof  
Print Name: Steven F. Imhof  
Its: Vice President

Landlord:

**NEWPORT EQUITIES, LLC**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Tenant:

**DOMINICK'S FINER FOODS, LLC**  
a Delaware limited liability company

By: **Dominick's Supermarkets, Inc.,**  
a Delaware corporation  
Its: Member

By: \_\_\_\_\_  
Its Assistant Vice President

By: \_\_\_\_\_  
Its Assistant Secretary

Form Approved dm

**(ACKNOWLEDGEMENT REQUIRED)**

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If to Tenant: Dominick's Finer Foods, LLC  
c/o Safeway Inc.  
5918 Stoneridge Mall Road  
Pleasanton, CA 94588  
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Re: Dominick's Store #10-1964

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711 Jorie Blvd.  
Oakbrook, IL 60523  
Attention: Real Estate  
Re: Dominick's Store #10-1964

If Landlord: Newport Equities, LLC  
830 S. Buffalo Grove Rd., Suite 106  
Buffalo Grove, IL 60089  
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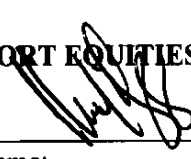
Lender:

**THE NORTHERN TRUST COMPANY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Landlord:

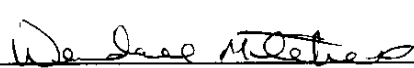
**NEWPORT EQUITIES, LLC**

By:   
Print Name: K.T. YOUSHAEI  
Its: MANAGING MEMBER


Tenant:

**DOMINICK'S FINER FOODS, LLC**  
a Delaware limited liability company

By: Dominick's Supermarkets, Inc.,  
a Delaware corporation  
Its: Member

By:   
Its Assistant Vice President

By:   
Its Assistant Secretary

Form Approved 

**(ACKNOWLEDGEMENT REQUIRED)**

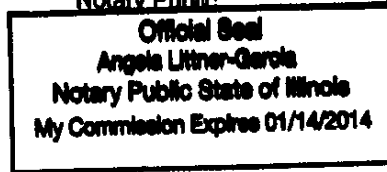
# UNOFFICIAL COPY

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF COOK            )

I, Angela Littner-Garcia a notary public in and for said County, in the State aforesaid, do hereby certify that STEVE IMHOF, personally known to me to be the Vice President of The Northern Trust Company, an Illinois banking association and personally known to me to be the same person whose names is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President, he signed and delivered said instrument, pursuant to authority given by the Bank as his free and voluntary act and as the free and voluntary act and deed of said Bank, for the uses and purposes therein set forth.

Given under my hand and official seal this 18 day of August, 2012.

Angela Littner-Garcia  
Notary Public



W:\bdobbins\Northern Trust\notary block Steve Imhof.docx

Property of Cook County Clerk's Office

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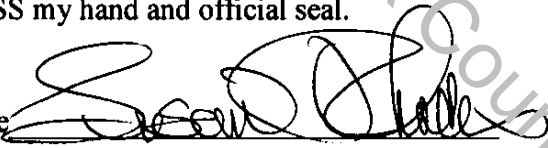
## ACKNOWLEDGMENT

STATE OF CALIFORNIA    )  
   )  
 County of Alameda        )        ss.

On July 24, 2012 before me, **Susan Rhoades**, Notary Public, personally appeared **Wendall Mitchell** and **K. Elliott**, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

Property of Alameda County Clerk's Office

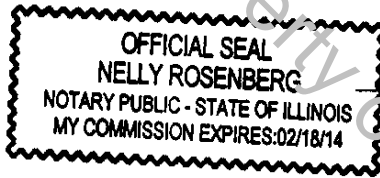
# UNOFFICIAL COPY

STATE OF ILLINOIS

COUNTY OF COOK ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT Kourosh Youshaei, 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, sealed and delivered the said instrument as the free and voluntary act of the limited liability company, for the uses and purposes therein set forth.

Given under my hand and official seal, this 27<sup>th</sup> day of July, 2012.



*Nelly Rosenberg*

(Notary Public)

Cook County Clerk's Office

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**PARCEL 1:**

**LOT 1 IN RANCH MART SUBDIVISION, BEING A SUBDIVISION IN THE WEST 3/4 OF THE  
SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD  
PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

**PARCEL 2:**

**NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION OF  
EASEMENT DATED AUGUST 14, 1975 AND RECORDED AUGUST 22, 1975 AS DOCUMENT NUMBER  
23197042, MODIFIED BY INSTRUMENT RECORDED MAY 6, 1976 AS DOCUMENT NUMBER 23476589  
AND BY SECOND MODIFICATION OF DECLARATION OF EASEMENTS RECORDED MARCH 5, 1985 AS  
DOCUMENT NUMBER 27463770.**

**PIN: 03-04-301-031-0000**

**Common Address: 686-860 S Buffalo Grove Road, Buffalo Grove, IL 60089**

Property of Cook County Clerk's Office