

UNOFFICIAL COPY

THIS DOCUMENT WAS PREPARED BY,
AND AFTER RECORDING, RETURN TO:



1300826279

Doc#: 1300826279 Fee: \$50.00
Karen A. Yarbrough RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/08/2013 01:09 PM Pg: 1 of 7

Bank of America, N.A.
800 Market Street, 8th Floor
St. Louis, MO 63101

PERMANENT TAX INDEX NUMBER:

14-19-305-014 0000

PROPERTY ADDRESS:

3531 N. Hamilton
Chicago, IL 60618

MORTGAGE SUBORDINATION AGREEMENT

This MORTGAGE SUBORDINATION AGREEMENT (the "Agreement") dated as of December 11, 2012, is executed by and among Robert A. Katz and Kathleen Jamieson Katz, Husband and Wife, whose address is 3531 N. Hamilton, Chicago, IL 60618 (collectively, the "Mortgagor"), Bank of America, N.A. (the "Senior Mortgagee"), whose address is _____ and Bank of America, N.A., a national banking association (the "Junior Mortgagee"), whose address is 800 Market Street, 8th Floor, St. Louis, MO 63101

RECITALS:

A. The Mortgagor is the fee owner of certain real property and all improvements thereon commonly known as 3531 N. Hamilton, Chicago, IL 60618 (the "Property"), which is more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.

B. The Senior Mortgagee will make a loan (the "Mortgagor Loan") to the Mortgagor under and pursuant to that certain _____ Agreement dated as of _____, executed by the Borrower to and for the benefit of the Senior Mortgagee (the "Mortgagor Loan Agreement"), and as evidenced by that certain Promissory Note dated 12/13/12 in the original principal amount of _____ Dollars (\$ 116,7591.81), executed by the Mortgagor and made payable to the order of the Senior Mortgagee (the "Mortgagor Note"), which is secured by, among other things, that certain Mortgage dated 12/13/12, executed by the Mortgagor to and for the benefit of the Senior Mortgagee, and to be recorded with the Office of the Recorder of Deeds of Cook County, Illinois (the "Senior Mortgage").

S
P
C
RC
T

Y
12
N
Y
10

BOX 334 CT

239820 2/2 Rev.

UNOFFICIAL COPY

C. The Junior Mortgagee has made a loan (the "Loan") to the RK Restaurant Group, Inc. ("Borrower") evidenced by that certain Loan Agreement dated April 26, 2011 in the original principal amount of Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00), executed by the Borrower and made payable to the order of the Junior Mortgagee (the "Note"), and which is secured by, among other things, that certain Mortgage dated April 26, 2011, executed by the Mortgagor to and for the benefit of the Junior Mortgagee (the "Junior Mortgage"), which Junior Mortgage was recorded in the Office of the Recorder of Deeds of Cook County, Illinois on May 26, 2011 as Document No. 1114619042.

D. It is a condition precedent to the Borrower's obtaining the Loan from the Senior Mortgagee that the Senior Mortgage shall be and remain at all times a lien or charge upon the Property prior and superior to the lien or charge of the Junior Mortgage (as hereinafter set forth), in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

A G R E E M E N T S :

1. The recitals of this Agreement are incorporated herein and made a part hereof by this reference thereto.
2. The Junior Mortgagee hereby agrees that the mortgage, lien and encumbrance of the Junior Mortgage on the property shall be subordinate to the mortgage, lien and encumbrance of the Senior Mortgage.
3. The Junior Mortgagee shall not acquire by subrogation, contract or otherwise any lien upon any other estate, right or interest in the Property (including without limitation any which may arise in respect to real estate taxes, assessments or other governmental charges) which is or may be prior in right to the Senior Mortgage, unless within twenty (20) days following written notice of such intention from the Junior Mortgagee, the then holder of the Senior Mortgage shall fail or refuse to purchase or acquire by subrogation or otherwise such prior lien, estate, right or interest.
4. The Senior Mortgagee shall give the Junior Mortgagee notice of any default under the Mortgagor Loan at the time such notice is given to the Mortgagor, provided, however, that the failure to do so shall not affect the rights and obligations of the parties hereunder. The Senior Mortgagee shall give the Junior Mortgagee notices of any increase, amendment, deferral, extension, consolidation, or supplement (a "Modification") to the Mortgagor Loan, provided, however, the Senior Mortgagee may, without notice to the Junior Mortgagee, enter into a Modification which provides for increases in the Mortgagor Loan resulting from actions by the Senior Mortgagee to protect a default of the Mortgagor under the Mortgagor Loan, increases to work out repayment of the Mortgagor Note due to a default by the Mortgagor, and increases representing deferrals of interest or other charges payable by the Mortgagor under the Mortgagor Note (including, without limitation, increases due to a capitalization of interest). The Senior Mortgagee shall use its reasonable efforts to give the Junior Mortgagee notice of the occurrence of any of the foregoing. Notwithstanding anything to the contrary contained herein, the Senior Mortgagee shall not increase the principal amount of the Mortgagor Note above \$417,000.00 without the prior written consent of the Junior Mortgagee; provided, however, the Senior

UNOFFICIAL COPY

Mortgagee may, without the written consent of the Junior Mortgagee, increase the principal amount of the Mortgagor Loan to (i) protect the security of the Senior Mortgage, (ii) remedy a default of the Mortgagor under the Mortgagor Loan, (iii) work out repayment of the Mortgagor Note due to a default by the Mortgagor, and/or (iv) account for a deferral of interest or other charges payable by the Mortgagor under the Mortgagor Note (including, without limitation, increases due to a capitalization of interest).

5. So long as the Senior Mortgage shall remain a lien upon the Property or any part thereof, the Junior Mortgagee shall execute, acknowledge and deliver, upon the Senior Mortgagee's reasonable demand, at any time or from time to time, any and all further subordinations, agreements or other instruments in recordable form as the Senior Mortgagee may reasonably require for carrying out the purpose and intent of the covenants contained herein.

6. This Agreement shall be the entire agreement with regard to the subordination of the lien or charge of the Junior Mortgage to the lien or charge of the Senior Mortgage, and shall supersede and cancel any prior agreements as to such subordination, including, without limitation, those provisions (if any) contained in the Mortgagor Loan Documents or in the Fortuna Loan Documents which provide for the subordination of any further encumbrances to the lien of the Senior Mortgage.

7. All notices expressly provided hereunder to be given shall be in writing and shall be (i) hand delivered, effective upon receipt, (ii) sent by United States Express Mail or by private overnight courier, effective upon receipt or (iii) served by certified mail. Any such notice or demand served by certified mail, return receipt requested, shall be deposited in the United States mail, postage prepaid and addressed to the party so to be served at its address set forth above or at such other address of which said party shall have theretofore notified in writing, as provided above, the party giving such notice. Service of any such notice or demand so made shall be deemed effective on the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, whichever is the earlier in time.

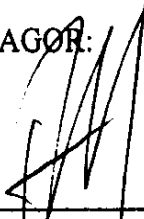
8. This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State in which the Property is located. The Junior Mortgagee hereby consents to the jurisdiction of any federal or state court within the State in which the Property is located, and also consents to service of process by any means authorized by those courts or federal law.

9. This Agreement may be signed in multiple counterparts with the same effect as if all signatories had executed the same instrument.

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have executed this Mortgage Subordination Agreement as of the date first above written.

MORTGAGOR:



Robert A. Katz

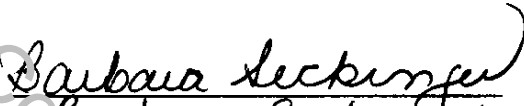


Kathleen Jameson-Katz

JUNIOR MORTGAGEE:

BANK OF AMERICA, N.A.,
a national banking association

By:



Name:

Barbara Seckinger

Title:

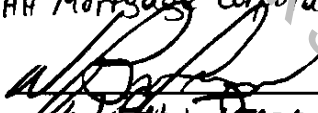
Officer

SENIOR MORTGAGEE:

Bank of America, N.A.

By: PHH Mortgage Corporation, Authorized Agent

By:



Name:

Michael J. Doyle

Title:

Vice President

Property of COOK County Clerk's Office

UNOFFICIAL COPY

STATE OF Illinois)
MICHIGAN)
COUNTY OF Dubuque) SS.
~~OAKLAND~~)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Robert A Katz, who is 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, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 31 day of October, 2012.



Barbara Seckinger
Notary Public

My Commission Expires:

1/23/14

STATE OF Illinois)
MICHIGAN)
COUNTY OF Dubuque) SS.
~~OAKLAND~~)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Kathleen Jamieson Katz, who is 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, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 31 day of October, 2012.



Barbara A Seckinger
Notary Public

My Commission Expires:

1/23/14

STATE OF ILLINOIS)
) SS.

UNOFFICIAL COPY

COUNTY OF DuPage)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Basil Seakinger, the Officer, of BANK OF AMERICA, N.A., a national banking association, who is 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 as such _____, he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said banking association, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 31 day of October, 2012.



Erica Cardenas
Notary Public

My Commission Expires:

August 21, 2016

STATE OF Florida)
~~ILLINOIS~~)
COUNTY OF Duval) SS.
~~COOK~~)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that W Brian Teague, the Vice President, of PHH Mortgage Corporation, an Illinois banking corporation, who is 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 as such _____, he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said banking corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 11th day of December, 2012.



Marjorie Stone
Notary Public

My Commission Expires:

10/26/2016

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

Land in the City of Chicago, described as follows:

IN THE COUNTY OF COOK, STATE OF ILLINOIS: LOT 26 AND THE SOUTH 4 FEET OF LOT 27 IN BLOCOK 30, IN THE SUBDIVISION OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ AND THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 19, AFORESAID, ALL IN COOK COUNTY, ILLINOIS.

PIN: 14-19-305-014-0000

Address: 3531 N. Hamilton
Chicago, IL 60618