



Doc# 2114855001 Fee \$93.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 05/28/2021 09:18 AM PG: 1 OF 7

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: Lori Kapaldo, Leasing Manager National Shopping Plazas, Inc. 200 W. Madison Street, Suite 4200 Chicago, IL 60606

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is effective as of December 17, 2020 by and between Genworth Life Insurance Company ("Lender"), Cooper Property Group, L.L.C., ("Landlord") and O'Reilly Auto Enterprises, LLC. ("Tenant").

WITNESSETH

WHEREAS, Landlord and Tenant have entered into that certain New Construction Building Lease dated as of June 28, 2016 (the "Lease"), covering a portion of certain premises generally described as Western Ave., North of Rout 30, Chicago Heights, IL, more particularly described in Exhibit "A" attached to this Agreement (the "Property"); and

WHEREAS, Lender holds a mortgage dated December 17, 2020 given by Landlord and encumbering the Property (such mortgage, as it may be amended, restated, extended or otherwise altered from time to time, the "Mortgage"; the promissory note secured by the Mortgage is herein referred to as the "Note" and the Note, Mortgage and other loan documents evidencing or securing the loan secured by the Mortgage are herein referred to as the "Loan Documents"); and

NOW, THEREFORE, in consideration of the mutual covenants, conditions, provisions and agreements set forth in this Agreement, Lender, Landlord and Tenant hereby represent, acknowledge, covenant and agree as follows:

1. The Lease. Landlord and Tenant covenant and represent to Lender and to each other that the Lease is in full force and effect.

2. Subordination. Tenant hereby subordinates the Lease at all times and in all respects to the Mortgage and to all renewals, modifications and extensions thereof. The Lease is and shall at all times be subordinate in all respects to the Mortgage and to all renewals, modifications and extensions thereof, but Lender and Tenant agree that any foreclosure of the Mortgage shall not terminate the Lease.

3. Non-Disturbance. Tenant's possession under the Lease and Tenant's rights and privileges thereunder shall not be diminished or interfered with by Lender, and accordingly, Tenant's occupancy shall not be disturbed by Lender during the term of the Lease, except in accordance with the terms of the Lease.

Handwritten initials and signatures: S, V, Z, L, M, Y, SC, E, INT, A

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4. Recognition and Attornment. If Lender succeeds to the interest of Landlord in and to the Property or under the Lease, the Lease and all terms therein, and the rights of Tenant thereunder shall continue in full force and effect and shall not be altered, terminated or disturbed, and Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the Lease term thereof with the same force and effect as if Lender were the landlord under the Lease. In such event, Tenant shall attorn to Lender as its landlord, such attornment to be effective and self-operative without the execution of any other instruments on the part of Lender or Tenant. Upon receipt by Tenant of such notice from Lender, Tenant shall make all payments of monetary obligations due by Tenant under the Lease to Lender or as Lender may in writing direct, with no liability to Landlord. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the lease term of the Lease, shall be and are the same as are then in existence between Tenant and Landlord as set forth in the Lease.

5. Rights Under the Lease. Notwithstanding anything to the contrary contained in this Agreement or the Lease, if Lender shall (a) succeed to the interests of Landlord in and to the Property or under the Lease, or (b) enter into possession of the Property, Lender shall not be:

- (i) liable for any acts or omissions of any prior landlord under the Lease (including Landlord) or subject to any offsets that Tenant may have against any prior landlord arising under the Lease (including Landlord); except acts, omissions and offsets of which Lender was given prior notice in accordance with the terms of this Agreement;
- (ii) obligated to give Tenant a credit for and/or acknowledge any rent or additional rent which Tenant has paid to Landlord or any prior landlord which is in excess of the rent or additional rent due under the Lease unless such payment is provided for in the Lease as presently existing or as amended in accordance with this Agreement; or
- (iii) liable for any damages Tenant may suffer as a result of any misrepresentation, breach of warranty or any act or failure to act by any party other than Lender; or
- (iv) bound by any amendment or modification of the Lease made without its consent, provided that, if Lender has not responded in writing; within ten (10) days of Landlord's or Tenant's written request for consent, Lender shall be deemed to have given such consent.

6. Lender Opportunity to Cure Landlord Defaults. Tenant hereby agrees that it shall provide Lender with a copy of any notice of default given to Landlord, pursuant to the terms of the Lease. In the case of any default by Landlord under the Lease, Tenant agrees that no rights or remedies of Tenant on account of such default shall be exercised by Tenant unless and until Lender shall have been given notice of such default and the same time to cure such default as Landlord has under the Lease (the "Cure Period"), provided, however, that the Cure Period granted to Lender

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herein: (a) shall be extended by any period of time during which Lender is diligently pursuing the cure of a default that cannot reasonably be expected to be cured within the initial Cure Period, and (b) shall not be deemed to commence until after any period of time during which Lender is pursuing acquisition of title to the Property through foreclosure or otherwise, such period to include, without limitation, any period of time (i) during which Lender's acquisition of title to the Property is stayed by any proceeding in bankruptcy or any injunction or other judicial process, and (ii) after acquisition of title by Lender during which Landlord or any other party is contesting the validity of the acquisition or Lender's title to the Property. The cure rights set forth in this Section 6 may be exercised in the sole discretion of Lender, and under no circumstance shall Lender be required to undertake curative measures on behalf of Landlord.

7. Notices. Any notice required or permitted to be delivered hereunder shall be deemed received on the date actually received or rejected if the notice is deposited in the United States mail, postage prepaid, certified mail, return receipt requested, or one business day after being sent by Federal Express or similar overnight courier, addressed to Tenant, Landlord or Lender, as the case may be, at the address of such party set forth opposite the signature of such party hereto, or such other address as may thereafter be provided in writing to the respective parties. Any notice sent to any party hereunder shall be sent to all parties hereunder. Tenant shall be entitled to rely upon any notice from Lender hereunder as to the matters stated in and covered by any such notice.

8. Assignment of Rents. Tenant acknowledges and agrees that this Agreement constitutes notice to Tenant of the existence of the Mortgage and that the Lease and the rent owing under the Lease have been assigned to Lender as security for the Note and the other Loan Documents. If in the future there is a default by Landlord in the performance or observance of the Note, the Mortgage or any other Loan Document, Lender may, at its option, require that all rents and other payments due under the Lease be paid directly to Lender. Upon notification to that effect by Lender, Tenant agrees to pay any rent or other payments due under the terms of the Lease directly to Lender.

9. Definitions. The parties hereto agree that (a) the terms "holder of a mortgage" and "Lender" or any similar term herein or in the Lease shall be deemed to include Lender and any of its successors or assigns, including any person or entity who shall have succeeded to ownership of the Property or to Landlord's interests by, through or under the foreclosure of the Mortgage or any of the other Loan Documents or deed in lieu of foreclosure or otherwise, and (b) the term "Landlord" shall be deemed to include Landlord, the holder of the lessor's interest under the Lease and the fee owner of the Property and the successors and assigns of any of the foregoing.

10. Applicable Law. This Agreement is governed by and will be construed in accordance with the laws of the State of Illinois.

11. Entire Agreement. This Agreement contains the sole and entire agreement and understanding between the parties with respect to the subject matter hereof and shall supersede any and all other oral or written agreements between the parties with respect to the subject matter hereof.

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IN WITNESS WHEREOF, the parties hereto have caused this Subordination, Non-Disturbance and Attornment Agreement to be duly executed on the respective dates indicated below (the latest of which is the date hereof), but this Agreement is made by the parties hereto effective as of the day and year first above written.

LENDER:

12/10/2020
Date

Genworth Life Insurance Comany

10851 Mastin, Suite 300
Overland Park, KS 66210

By: Philip Hart
Name: Philip Hart
Title: Investment Officer

LENDER ACKNOWLEDGEMENT

STATE OF Virginia)
COUNTY OF Chesterfield

On this 10th day of December, 2020, before me personally appeared Philip Hart, to me known to be the person described in and who executed the foregoing and acknowledged that (s)he executed the same as her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal in the County of Chesterfield, the day and year first above written.

Commonwealth Of Virginia
Christal Gilliam Schlosser - Notary Public
Commission No. 7810825
My Commission Expires 2/28/2023

Christal Gilliam Schlosser
Notary Public

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AFFIRMATION

I affirm, under penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

[Signature]

LANDLORD:

Cooper Property Group, L.L.C.

December 3, 2020
Date

c/o National Shopping Plazas, Inc.
200 West Madison Street, Suite 4200
Chicago, IL 60606

By: George Hanus
Name: _____
Title: President

LANDLORD ACKNOWLEDGEMENT

STATE OF Illinois)

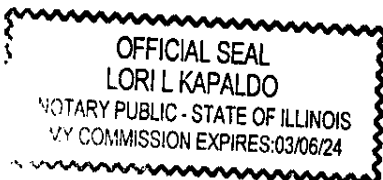
COUNTY OF Will)

On this 3rd day of December, 2020, before me, a notary public in and for said state, personally appeared George Hanus the President of Cooper Property Group, L.L.C. known to me to be the person who executed the within New Construction Building Lease and acknowledged to me that he executed the same for the purposes therein stated on behalf of such company.

Witness my hand and notarial seal subscribed and affixed in said County and State, the day and year first above written.

03/06/24
My Commission Expires:

[Signature: Lori L. Kapaldo]
Notary Public



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TENANT:

11-16-2020

Date

O'Reilly Auto Enterprises, LLC
a Delaware limited liability company

233 South Patterson
Springfield, MO 65802
Attn: Property Management

By: Carol E. Kirkman
Name: Carol E. Kirkman
Title: Director of Property Management
& ADA Compliance

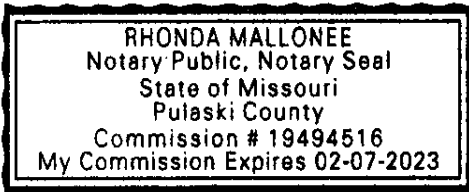
TENANT ACKNOWLEDGEMENT

STATE OF MISSOURI)
)
COUNTY OF GREENE)

On this 16th day of November, 2020, before me personally appeared Carol E. Kirkman to me known to be the person described in and who executed the foregoing and acknowledged that she executed the same as her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal in the County of Greene, the day and year first above written.

Rhonda Mallonee
Notary Public



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EXHIBIT A

Legal Description

THE NORTH 343.3 OF THE SOUTH 921.70 FEET OF THE WEST 881.86 FEET (EXCEPT THE SOUTH 77 FEET OF THE EAST 130 FEET THEREOF AND EXCEPT THE WEST 50 FEET THEREOF TAKEN FOR WESTERN AVENUE) OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. P.I.N. Commonly known as 20937 S. Western Ave., Chicago Heights, IL 60411.

Parcel no. 32-19-101-032-0000

Property of Cook County Clerk's Office