

Store #243
Arlington Heights, Illinois

UNOFFICIAL COPY

86380765

ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT is made and entered into as of this 31st day of March, 1986, by and between LUCKY STORES, INC., a California corporation ("Lucky"), DOMINICK'S FINER FOODS, INC., a Delaware corporation ("Dominick's") and MIOTTEL NUMBER ONE, a California limited partnership and SAMUEL H. SCRIPPS, a married man dealing with his separate property (hereinafter collectively called "Landlord");

W I T N E S S E T H:

WHEREAS, there is in existence a certain Indenture of Lease dated March 2, 1971, by and between Landlord, as Lessor, and Lucky, as Tenant, demising certain real property located in the Village of Arlington Heights, Illinois, the legal description of which is attached hereto marked Exhibit "A" and made a part hereof, a Memorandum Recording copy of which Lease was recorded in the official records of Cook County, Illinois on March 11, 1971 as Document No. 21418404 (which Lease, together with the amendments or modifications thereof or supplements thereto or instruments affecting the same, if any, is hereinafter referred to as the "Lease"); and

WHEREAS, Lucky has agreed to assign all of its right, title and interest in and to the Lease unto Dominick's and Dominick's has agreed to assume and perform all obligations and covenants of Lucky to be performed under the Lease; and

WHEREAS, Landlord has agreed to consent to the assignment of the Lease by Lucky to Dominick's upon the terms, covenants and conditions hereinafter contained;

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. Effective 4/21/86, Lucky has granted, conveyed, transferred and assigned and by these presents does grant, convey, transfer and assign unto Dominick's all of Lucky's leasehold estate and right, title and interest in and to the Lease to have and hold unto said Dominick's said leasehold estate

Kevin P. Breslin
Katz Randall & Weinberg
200 N. LaSalle Street
Chicago, IL 60601 (File 2596.33)
BOX 340

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and all of Lucky's right, title and interest in and to the Lease (including but not limited to all security deposits and escrows held by Landlord for the benefit of Lucky or credits due Lucky from Landlord. Lucky will warrant and forever defend title to the leasehold estate and all of said rights, title and interest under the Lease unto Dominick's, its successors and assigns against every person whomsoever claiming or to claim the same or any part thereof. Lucky further warrants and represents that it is the original lessee under the Lease and that the Lease is in full force and effect.

2. Effective 4/21/86, Dominick's hereby accepts, assumes and agrees to perform and observe all of the undertakings, obligations and covenants to be performed or observed from and after the effective date hereof by the lessee or tenant under the Lease, including, without limiting the generality of the foregoing, the payment of all minimum rent, percentage rents, parking lot maintenance or other charges to accrue or to become due from and after the effective date hereof, under the Lease. Dominick's agrees further to indemnify Lucky and hold Lucky harmless with respect to any claim against Lucky or any expense or liability which Lucky may incur, as a result of a breach or default by Dominick's of its covenants herein.

3. Landlord does hereby consent to the foregoing assignment and assumption of the Lease and agrees to recognize Dominick's as the successor-tenant thereunder. In addition, Landlord does hereby specifically recognize and agree that the business being conducted upon the demised premises has been closed since June 22, 1985 and that Dominick's may not reopen said business for a period of one (1) year from and after the date hereof and that such closing shall not constitute a default under the terms of the Lease.

4. The provisions hereof shall be subject and subordinate to the provisions of the Lease and the termination or cancellation of the assigned Lease shall constitute a termination and cancellation of this agreement.

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5. Notwithstanding the foregoing assignment and assumption, Lucky shall not be relieved from any of its obligations as Tenant under the terms of the Lease and shall remain liable for the performance of all of the terms and covenants contained therein and Lucky and Dominick's shall be jointly and severally liable to Landlord for the performance of such terms and covenants.

6. The parties hereto recognize that Dominick's intends to expand the demised premises for its use and occupancy if such expansion is ascertained to be economically feasible. To this end, Dominick's and Landlord may desire to amend the provisions of the Lease in order to incorporate the terms and conditions of said expansion. In such event, Lucky agrees that it will not unreasonably withhold its consent to such an amendment and will agree to remain liable to Landlord under the Lease, as amended, provided that such amendment specifically provides that Lucky's liability under the Lease shall not be increased or enlarged by such amendment.

IN WITNESS WHEREOF, each of the parties has hereunto set its hand and seal as of the day and year first above written.

LUCKY STORES, INC.

By: [Signature]
Its MIDWESTERN FOOD DIVISION PRESIDENT

By: [Signature]
Its ASSISTANT SECRETARY

DOMINICK'S FINER FOODS, INC.

By: [Signature]
Its _____

ATTEST:
By: [Signature]
Its _____

MIOTTEL NUMBER ONE

By: [Signature]
Its GENERAL PARTNER

[Signature]
SAMUEL H. SCRIPPS

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STATE OF ILLINOIS)
) SS
COUNTY OF)

The undersigned, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that _____, personally known to me to be the _____ of Dominick's Finer Foods, Inc. and _____, personally known to me to be the _____ of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____, they signed and delivered the said instrument as _____ of said Corporation and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as their free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of July, A.D. 1956.

Notary Public
NOTARY PUBLIC

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Property of Cook County Clerk's Office

Lot Number One in Wilke-Central Subdivision
of a part of fractional Section 5 and 8
Township 41 North, Range 11 East of the third
principal meridian; situated in the County of
Cook, State of Illinois.

(P.I.N. 08-08-201-004-000 commonly known as
1801 West Central Road, Arlington Heights, IL)

DEPT-01 RECORDING \$14.00
T#3333 TRAN 6992-08/28/86 09:45:00
#1753 # A # -86-589765
COOK COUNTY RECORDER

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EXHIBIT A