

This Document was prepared by Alan Papernick, Esquire, Papernick & Gefsky, 34th Floor, One Oxford Centre, Pittsburgh, Pennsylvania 15219.

87512662

ASSIGNMENT OF LEASES AND RENTS

THIS AGREEMENT, made this 18th day of September, 1987,

BY

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, having an address of 33 North LaSalle Street, Chicago, Illinois, not personally but solely as Trustee for Berwyn Avenue Associates Incorporated, an Illinois Corporation, pursuant to a certain Trust Agreement dated August 11, 1987, and known as Trust Number 103252-07, and BERWYN AVENUE ASSOCIATES INCORPORATED, an Illinois Corporation, both hereinafter collectively called "Assignor",

In Favor Of

DOLLAR BANK, FEDERAL SAVINGS BANK, hereinafter called "Assignee."

WITNESSETH:

FOR VALUE RECEIVED, Assignor does hereby GRANT, SELL, ASSIGN, TRANSFER, SET OVER and DELIVER unto the Assignee Assignor's entire interest in and to all leases, written or oral, and all agreements for use or occupancy of any portion of the premises, together with the buildings and improvements thereon, consisting of sixteen (16) townhome residences (hereinafter referred to as the "Improvements") upon certain real property situate at the northeast corner of Berwyn Avenue and Sheridan Road, Chicago, Illinois, which premises are more particularly described in Exhibit "A" attached hereto and hereinafter are referred to as the "Mortgaged Premises";

87512662

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

TOGETHER with any and all modifications, extensions and renewals thereof and any and all further leases, lettings or agreements (including subleases thereof and tenancies following attornment) upon or covering use or occupancy of all or any part of the said Mortgaged Premises (all such leases, agreements, subleases and tenancies heretofore mentioned are hereinafter collectively included in the designation "Leases");

TOGETHER with any and all guarantees of any lessee's performance under any of the Leases; and

TOGETHER with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which Assignor may now or shall hereafter become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Mortgaged Premises or any part thereof, including but not by way of limitation: minimum rents, additional rents, percentage rents, parking, maintenance, tax and insurance contributions, damages following default, the premium payable by any lessee upon the exercise of cancellation privilege originally provided in any Lease, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to said premises together with any and all rights and claims of any kind which Assignor may have against any lessee under such Leases or any subtenants or occupants of the Mortgaged Premises (all such monies, rights and claims in this paragraph described being hereinafter called "rents");

SUBJECT, however to a license hereby granted by Assignee to Assignor, but limited as hereinafter provided, to collect and receive all of the said rents;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

TO HAVE AND TO HOLD the same unto the Assignee, its successors and assigns forever, or for such shorter period as hereinafter may be indicated.

THIS ASSIGNMENT IS MADE FOR THE PURPOSE OF SECURING the payment of the indebtedness evidenced by that certain Note (the "Note") of even date herewith, in the principal sum of Four Million Two Hundred Thousand Dollars (\$4,200,000.00) made by Assignor payable to the order of Assignee, and presently held by Assignee, including any extension and renewal thereof and any note or notes supplemental thereto, as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions and warranties contained in the Mortgage and Security Agreement (the "Mortgage") securing repayment of said Note and bearing even date herewith, and in any extensions, supplements and consolidations thereof, covering the Mortgaged Premises and securing the said Note (hereinafter collectively called "the Note and Mortgage"), together as security for repayment by Assignor to Assignee of any other indebtedness or obligation Assignor may now or hereafter incur to Assignee, all hereafter called "obligations of Assignor."

A. TO PROTECT THE SECURITY OF THIS ASSIGNMENT, ASSIGNOR COVENANTS:

1. That Assignor has full right and title to assign the said Leases and rentals.

2. To observe and perform all of the obligations imposed upon the Lessor in said Leases and not to do or permit to be done anything to impair the security thereof; that said Leases are valid and enforceable and that the tenants are not in default under any of the terms thereof; that no rent reserved in said Leases has been anticipated or assigned; only to accept cash or checks in payment of rent; not to collect any of the rent, income and profits arising or accruing from the Mortgaged Premises in

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

advance of the time when the same become due under the terms of the Leases; not to discount any future accruing rents; not to execute any other Assignment of Leases or Assignment of Rents of the Mortgaged Premises; and not to alter, modify or change the terms of any of the Leases, or surrender, cancel or terminate any of the same without the prior written consent of Assignee.

3. Without limiting the efficacy hereof, to expressly assign and transfer to Assignee any and all further Leases upon all or any part of the Mortgaged Premises and to execute and deliver, at the request of Assignee, all such further assurances and assignments in the Mortgaged Premises as Assignee shall from time to time require.

B. IT IS MUTUALLY AGREED THAT:

1. Until written notification to the contrary is given by Assignee, Assignor shall have the right to collect, but not more than thirty (30) days prior to accrual, all rents, issues and profits from said Mortgaged Premises and to retain, use and enjoy the same.

2. Upon written notice from Assignee to tenants under the Leases ("Tenants"), all Tenants shall make all rental payments directly to Assignee until such time as Assignee directs Tenants in writing to otherwise make such payments. Assignor covenants and agrees to release and hold harmless all Tenants from any claim on account of any such payments made directly to Assignee.

3. The acceptance of this Assignment and the collection of rents or the payments under the Leases hereby assigned shall not constitute a waiver of any rights of the Assignee under the terms of the Note and Mortgage. In the event of conflict between the terms and conditions hereof and the terms

87512662

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

and conditions of the Mortgage relating to assignment of rents, the terms and conditions of the Mortgage shall prevail.

4. It is expressly understood and agreed by the parties hereto that, anything to the contrary notwithstanding, Assignor hereby assigns to Assignee any award made hereafter to Assignor in any court procedure involving any of the Tenants in any bankruptcy, insolvency, or reorganization proceedings in any State or Federal court; and any and all payments made by Tenants in lieu of rent. Assignor hereby appoints Assignee as its irrevocable attorney in fact to appear in any action and/or to collect any such award or payment.

5. In addition, upon the occurrence of any default under the Note, the Mortgage or any of the Leases, Assignee, without in any way waiving such default, may, at its option, expressly declare itself to be mortgagee in possession and take possession of the Mortgaged Premises, and have, operate, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem proper, and may collect and receive all rents, issues and profits of the Mortgaged Premises, with full power to make from time to time all alterations, renovations, repairs or replacements thereto as may seem proper to Assignee, to let or relet the Mortgaged Premises or any part thereof, cancel or modify any or all of the Leases, evict Tenants, bring or defend any suits in connection with the possession of the Mortgaged Premises in its own name or Assignor's name, and to apply all such rents, issues, and profits to the payment of (a) the cost of all such alterations, renovations, repairs and replacements and expenses incident to taking and retaining possession of the Mortgaged Premises and the management and operation thereof, and keeping the same properly insured, and (b) all taxes, charges, claims, assessments, water rents and any other liens which may be prior in lien or payment to the obligations of Assignor, and premiums for said insurance, with interest on all such items, and (c) the obligations of

87512562

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Assignor together with all costs and attorney's fees, in such order of priority as to any of such items, as Assignee, in its sole discretion, may determine, any statute, law, custom or use to the contrary notwithstanding.

6. By accepting this Assignment, Assignee agrees that if it shall upon any such default exercise any option or remedy herein and if such default shall be remedied and all necessary charges and expenses incurred by reason thereof paid, the parties hereto, at Assignee's option, shall each be restored to and reinstated in their respective rights and estates as if a default had not occurred. Assignor shall thereupon hold said Mortgaged Premises subject to said Mortgage and this Assignment as if Assignee had not exercised any option or remedy hereunder; but nothing hereinbefore contained shall impair any right of Assignee upon any subsequent occurrence of a default.

7. Assignee shall not be obligated to perform or discharge nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any or all of the Leases, or under or by reason of this Assignment, and Assignor shall and does hereby agree to indemnify Assignee for and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under any or all of the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in the Leases. Should Assignee incur any such liability, loss or damage under the Leases or under this Agreement, or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured hereby, and Assignor shall reimburse Assignee therefor immediately upon demand, and upon failure of Assignor so to do Assignee may declare all sums secured hereby immediately due and payable.

87512652

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

8. Assignee shall not be deemed a mortgagee in possession by virtue of collection of rents by the Assignee but rather only by Assignee exercising its option under Paragraph 5 hereof.

9. Upon the payment in full of all indebtedness secured hereby, this Agreement shall become and be void and of no effect, but the affidavit, certificate, letter or statement of any officer, supervisor or attorney of Assignee showing any part of said indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness, and continuing force of this Assignment, and any person may and is hereby authorized to rely thereon.

10. A demand on a Tenant by Assignee for the payment of the rent under any of the Leases shall be sufficient warrant to said Tenant to make future payments of rent to Assignee without the necessity for further consent by Assignor.

11. Assignee may take or release other security, may release any party primarily or secondarily liable for any indebtedness secured hereby, may grant extensions, renewals or indulgences with respect to such indebtedness, and may apply any other security therefor held by it to the satisfaction of such indebtedness without prejudice to any of its rights hereunder.

12. The term "Leases" as used herein means the Leases hereby assigned or any extension or renewal thereof, and any Leases subsequently executed by Assignor covering the Mortgaged Premises or any part thereof. In this Assignment, whenever the context so requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural, and conversely.

13. Nothing herein contained and no act done or omitted by Assignee pursuant to the powers and rights granted it

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

herein shall be deemed to be a waiver by Assignee of its rights and remedies under the Note and Mortgage, but this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms thereof. The rights of Assignee to collect the obligations of Assignor and to enforce any other security therefor held by Assignee may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action by Assignee hereunder. Any violation by Assignor of any covenant or provision hereof by Assignor shall at the option of the Assignee be deemed a default under any or all instruments evidencing Obligations of Assignor secured hereby.

14. All notices shall be given to Assignor at:

American National Bank and Trust Company
of Chicago
33 North LaSalle Street
Chicago, IL 60602

And

Berwyn Avenue Associates Incorporated
c/o Senior Lifestyle Corporation
737 North Michigan Avenue
Suite 900
Chicago, IL 60611

and Assignee at:

Dollar Bank, Federal Savings Bank
10th Floor
Three Gateway Center
Pittsburgh, PA 15222
Attn: Vice President/Real Estate Lending

Except as otherwise provided in this Assignment of Leases and Rents, all notices hereunder shall be in writing and shall be deemed to have been duly given for all purposes when delivered in person or when deposited in the United States mail, by registered or certified mail, return receipt requested, postage prepaid, directed to the party to receive the same at its

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

address stated above or at such other address as may be substituted by notice given as herein provided.

15. THIS ASSIGNMENT is binding upon and inures to the benefit of Assignee, its successors and assigns and any subsequent holder of the Note and Mortgage, and is binding upon and inures to the benefit of Assignor, its successors and assigns, and any subsequent owner of the Mortgaged Premises.

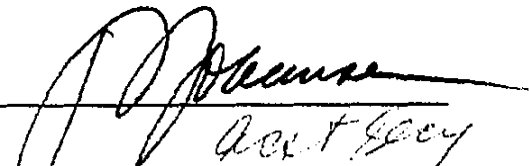
16. Assignee may further assign all its rights, title and interest hereunder and notice of any such Assignment to Assignor shall be binding upon Tenants.

IN WITNESS WHEREOF, Assignor has executed these presents the day and year first above written.

ATTEST:

ASSIGNOR:

AMERICAN NATIONAL BANK AND TRUST
TRUST COMPANY OF CHICAGO,
as Trustee as aforesaid

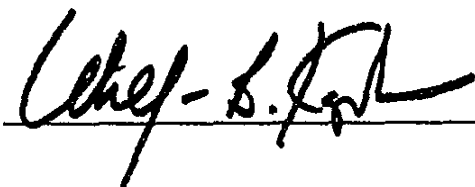


Notary Public

By: 

ATTEST:

BERWYN AVENUE ASSOCIATES INCORPORATED,
an Illinois Corporation



By: 

This instrument is executed by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO by reason of any of the covenants, statements, representations or warranties contained in this instrument.

87512662

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

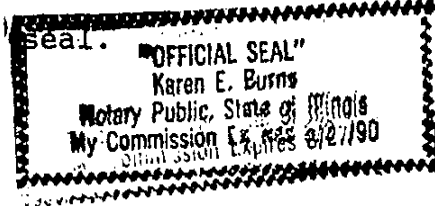
CORPORATE ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

ON THIS, the 18th day of September, 1987, before me, a Notary Public in and for the State and County aforesaid, the undersigned officer, personally appeared S. E. Baker, who acknowledged ^{her} ~~himself~~ to be the 2nd Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, being authorized to do so, executed the foregoing Assignment of Leases and Rents for the purposes therein contained by signing the name of the corporation by himself as such officer.

SEP 18 1987

IN WITNESS WHEREOF, I hereunto set my hand and official



Karen E. Burns
Notary Public

MY COMMISSION EXPIRES:

Clerk's Office

87512662

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

LOT 2 in Kaplan & Klutznick Subdivision of part of the East Half of the North East Fractional Quarter of Fractional Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, as according to the Plat recorded as Document Number 87-492253 on September 8, 1987, in Cook County, Illinois.

950 W. Berwyn,
Chgo, Ill

14-08-203-014-0000 (477)
100

DEPT-91 RECORDING \$22.40
#1111 TRAM 3197 09/16/87 16:53:00
#3664 # 4 * 57-512532
COOK COUNTY RECORDER

87512532

87512532

22.00
Mail

UNOFFICIAL COPY

Faint, illegible text at the top of the page, possibly a header or title.

Property of Cook County Clerk's Office

11/02/2018