

BANK ONE **UNOFFICIAL** Mortgage, Assignment of Rents, Security Agreement and Financing Statement

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT ("Mortgage") is made as of July 15

19 92 by

Initials:

92581437

not personally,

but as Trustee under Trust Agreement dated _____, 19____ and known as

Trust No. _____

and _____

Wilmette Theater Corporation an **Illinois** corporation,

a _____ limited partnership,

or a _____ general partnership or joint venture,

DEPT-01 RECORDING 437.50
T01111 TRAN 3135 07/30/92 14:18:00
95485 : A * - 92 - 561437
COOK COUNTY RECORDER

("Mortgagor") whose mailing address is

1122 Central Avenue, Wilmette, IL 60091

in favor of Bank One, Wilmette ("Mortgagee"), whose mailing address is **92581437**

1200 Central, Wilmette, IL 60091

Mortgagor or _____ is justly indebted to the Mortgagee including,

without limitation, the principal sum of One Hundred Thirty Thousand and no/100

----- Dollars (\$ 130,000.00) as evidenced by a certain PROMISSORY NOTE of even date herewith ("Note"), made payable to the order of and delivered to the Mortgagee, whereby the obligor promises to pay the Note, late charges, prepayment premiums (if any) and interest at the rate or rates, all as provided in the Note. The final payment of principal and interest, if not sooner paid, renewed, modified, extended or renegotiated shall be due on August 1, 1997. All such payments on account of the indebtedness secured hereby shall be applied first to interest on the unpaid principal balance of the Note, secondly to any other sums due thereunder, thirdly to all other advances and sums secured hereby, and the remainder to principal.

Mortgagor, (i) in order to secure the payment of said principal sum of money and said interest and late charges and prepayment premiums, if any, fees and expenses, in accordance with the terms, provisions and limitations of this Mortgage and of the Note; (ii) either directly or indirectly as evidenced by a guaranty of payment of performance executed by the Mortgagor or beneficiary of a mortgagor and the performance of the covenants and agreements herein contained by the Mortgagor to be performed; (iii) as security for repayment of any and all other liabilities and obligations of Mortgagor or its beneficiary now or hereafter due Mortgagee, whether direct or indirect, possible or contingent, primary or secondary, joint or several; and (iv) in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid, the receipt whereof is hereby acknowledged, Mortgagor does by these presents MORTGAGE, GRANT, REMISE, RELEASE, ALIEN AND CONVEY unto the Mortgagee and its successors and assigns, the following described real estate and all of its present and hereafter acquired estate, right, title and interest therein, lying and being in the County of

Cook and State of Illinois to wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A"

Commonly known as 1122 Central, Wilmette, IL 60091 which, with the property hereinafter described, is collectively referred to herein as the "Premises."

This Instrument Prepared By: Bruce W. Kamp

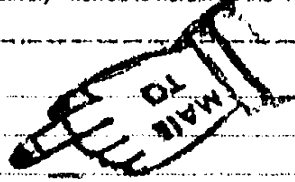
and Shall be Returned to Bank One, Wilmette

Attn: Bruce Kamp

1200 Central

Wilmette, IL 60091

Real Estate Tax I.D. No. 05-34-106-009-0000



3750
02

5/30/2005

5/30/2005

4. **MORTGAGEE'S INTEREST IN AND USE OF TAX AND INSURANCE DEPOSITS; SECURITY INTEREST.** In the event of a default hereunder, the Mortgagee may, at its option but without being required so to do, apply any monies at the time of deposit pursuant to Paragraphs 3 and 3a hereof to the Mortgagee's obligations contained herein or in the Note, in such order and manner as the Mortgagee may elect. When the indebtedness has been fully paid, any remaining deposits shall be paid to Mortgagee or to the then owner or owners of the Premises as the same appear on the records of the Mortgagee. A security interest, within the meaning of the Uniform Commercial Code of the State in which the Premises are located, is hereby granted to the Mortgagee in and to all monies at any time on deposit pursuant to Paragraph 3 and 3a hereof and such monies and all of Mortgagee's right, title and interest are hereby assigned to Mortgagee, as an additional security for the indebtedness hereunder and shall, in the absence of default hereunder, be applied by the Mortgagee for the purposes for which made hereunder and shall be subject to the direction or control of the Mortgagee; provided, however, that Mortgagee shall not be liable for any failure to apply to the payment of taxes or assessments or insurance premiums any amount so deposited unless Mortgagee, within ten days after the date the funds are deposited, shall file with the Mortgagee, in writing, a request to make application of such funds to the payment of the taxes or assessments or insurance premiums for payment of which they were provided; and the funds shall be applied to the payment of such taxes or assessments or insurance premiums for payment of which they were provided.

3c. **INSURANCE DEPOSITS.** For the purpose of providing funds with which to pay premiums when due on all policies of fire and other hazard insurance covering the Premises and the Collateral (defined below) and unless waived from time to time by Mortgagee in writing, Mortgagee shall deposit with the Mortgagee, commencing on the date of disbursement of the loan secured hereby and on the first day of each month following the month in which said disbursement occurs (unless otherwise agreed to by Mortgagee), a sum equal to the amount of the taxes and assessments or for the Premises (the amount of such taxes and assessments to be based upon the amount of the mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) reduced by the amount, if any, then on deposit with the Mortgagee, divided by the number of months to elapse before two months prior to the date when such taxes and assessments (general and special) shall first become due and payable. Such deposits are to be held without any allowance or payment of interest to Mortgagee and are to be used for the payment of taxes and assessments (general and special) when the same become due and payable. If the funds so deposited are insufficient to pay any such taxes or assessments (general and special) when the same become due and payable, the Mortgagee shall, within ten (10) days after receipt or demand hereof from the tax or assessment authority, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited are insufficient to pay such taxes and assessments (general and special) for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of the Mortgagee.

Anything in this Paragraph 3 to the contrary notwithstanding, if the funds so deposited are insufficient to pay any such taxes or assessments (general or special) or any installment thereof, Mortgagee will, not later than the thirtieth (30th) day prior to the last day on which the same may be paid without penalty or interest, deposit with the Mortgagee the full amount of any such deficiency.

3. **TAX DEPOSITS.** Unless waived from time to time by Mortgagee in writing, Mortgagee shall deposit with the Mortgagee, commencing on the date of disbursement of the loan secured hereby and on the first day of each month following the month in which said disbursement occurs (unless otherwise agreed to by Mortgagee), a sum equal to the amount of all real estate taxes and assessments (general and special) next due upon or for the Premises (the amount of such taxes and assessments to be based upon the amount of the mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) reduced by the amount, if any, then on deposit with the Mortgagee, divided by the number of months to elapse before two months prior to the date when such taxes and assessments (general and special) shall first become due and payable. Such deposits are to be held without any allowance or payment of interest to Mortgagee and are to be used for the payment of taxes and assessments (general and special) when the same become due and payable. If the funds so deposited are insufficient to pay any such taxes or assessments (general and special) when the same become due and payable, the Mortgagee shall, within ten (10) days after receipt or demand hereof from the tax or assessment authority, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited are insufficient to pay such taxes and assessments (general and special) for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of the Mortgagee.

2. **PAYMENT OF TAXES.** Mortgagee shall pay all general taxes, water charges, sewer service charges, and all other charges against the Premises when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor within thirty (30) days following the date of payment. Mortgagee shall pay in full under present any tax or assessment which Mortgagee may desire to contest, in the manner provided by law.

Anything in (c) and (d) above to the contrary notwithstanding, Mortgagee may, in good faith and with reasonable diligence, contest the validity or amount of any lien not expressly and in writing upon the premises, and discharge therefor during the pendency of such contest, provided: (i) that such contest shall have the effect of preventing the sale or foreclosure of the Premises or any part thereof, or any interest therein, to satisfy such lien; (ii) that, within ten (10) days after Mortgagee has been notified of the assertion of such lien, Mortgagee shall have notified in writing of Mortgagee's intention to contest such lien; and (iii) the Mortgagee shall have deposited with the mortgagee, a sum of money which shall be sufficient to pay the amount of Mortgagee to pay the lien and all interest which might become due thereon, and shall keep on deposit an amount so sufficient at all times, increasing such amount to cover additional interest whenever, in the judgment of Mortgagee, such increase is advisable. Such deposits are to be held without any allowance or interest. Mortgagee shall fail to prosecute such contest with reasonable diligence or shall fail to pay the amount of the lien plus any interest, cost and expenses finally determined to be due upon the contest, to the extent of such amount exceeds the amount which Mortgagee will pay as provided below or shall fail to maintain sufficient funds on deposit as hereinabove provided, Mortgagee may, at its option, apply the money so deposited in payment of or on such lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such lien, together with all interest thereon, Mortgagee and the Mortgagor, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. Mortgagee shall, upon the final disposition of such contest, apply the money so deposited in full payment of such lien or that part thereof then unpaid. Mortgagee shall not be held liable for any deficiency or for any loss of interest or for any other loss of the Mortgagor when such payment in full and with evidence satisfactory to Mortgagee of the amount to be made (provided Mortgagee is not then in default hereunder) when so requested in writing by Mortgagee and when furnished by Mortgagee with sufficient funds to make such payment in full and with evidence satisfactory to Mortgagee of the amount to be made.

1. **MAINTENANCE, REPAIR AND RESTORATION OF IMPROVEMENTS, PAYMENT OF PRIOR LIENS, ETC.** Mortgagee shall: (a) promptly repair, restore or rebuild any buildings and other improvements now or hereafter on the Premises which may become damaged or destroyed to substantially the same character as prior to such damage or destruction, without regard to the availability or adequacy of any casualty insurance proceeds or eminent domain awards; (b) keep the Premises constantly in good condition and repair, without cost, (collectively called "liens"), subject, however, to the rights of the Mortgagor set forth in the next Paragraph below; (c) promptly pay when due any indebtedness which may be secured by a lien or charge on the Premises on a party will or superior to the lien hereof (no such subsequent lien to be permitted hereunder) and upon request exhibit satisfactory evidence of the discharge of such lien to Mortgagee; (e) complete within a reasonable time any building(s) or other improvement(s) now or at any time in process of erection upon the Premises; (f) comply with all federal, state and local requirements of law, regulations, ordinances, orders and judgments and all covenants, easements and restrictions of record with respect to the Premises and the use thereof; (g) make no alterations in the Premises without Mortgagee's prior written consent; (iii) suffer or permit no change in the general nature of the occupancy of the Premises without Mortgagee's prior written consent; (ii) comply with all conditions and requirements (if any) necessary to preserve and extend all rights, easements, licenses, permits (including utility and non-utility) and any non-conforming uses and structures, privileges, franchises and concessions applicable to the Premises or connected or in connection with any present or future use of the Premises; and (i) pay each item of indebtedness secured by this Mortgagee when due according to the terms hereof and of the Note. As used in this Paragraph and elsewhere in the Mortgage, the term "indebtedness" means and includes the unpaid principal sum evidenced by the Note, together with all interest, additional interest, late charges and prepayment premiums thereon. (i) any and all other sums at any time secured by this Mortgage.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

TO HAVE AND TO HOLD the Premises unto the Mortgagee and its successors and assigns forever, for the purpose and uses herein set forth. **TOGETHER** with all improvements, tenements, reversions, remainders, easements, fixtures and appurtenances now or hereafter thereto belonging, and all rights, issues and profits therefor for so long and during all such times as Mortgagee may be entitled thereto (which are pledged primarily and as a party with said real estate and not secondarily): all real estate and interest therein (which are pledged primarily and as a party with said real estate and not secondarily) and all rights hereby conveyed and mortgaged are intended to be as a unit and are hereby understood, agreed and declared (to the maximum extent permitted by law) to form part and parcel of the real estate and to be appraised to the use of the real estate, and shall be, for the purpose of this Mortgage, deemed to be real estate and conveyed and mortgaged hereby.

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deposited, accompanied by the bills for such taxes or assessments or insurance premiums. Mortgagee shall not be liable for any act or omission taken in good faith but only for its gross negligence or willful misconduct.

5. INSURANCE. Mortgagor shall keep all buildings and improvements and the Collateral (defined in Paragraph 27 below) now or hereafter situated on said Premises insured against loss or damage by fire on a so-called "All Risks" basis and against such other hazards as may reasonably be required by Mortgagee, including without limitation of the generality of the foregoing: (a) rent loss or business interruption insurance whenever in the opinion of Mortgagee such protection is necessary; and (b) flood insurance whenever same is available and, in the opinion of Mortgagee, such protection is necessary. Mortgagor shall also provide insurance coverages with such limits for personal injury and death and property damage as Mortgagee may require. All policies of insurance to be furnished hereunder shall be in form, companies and amounts satisfactory to Mortgagee, with waiver of subrogation and replacement cost endorsements and a standard non-contributory mortgagee clause attached to all policies, including a provision requiring that the coverages evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to the Mortgagee. Mortgagor shall deliver all original policies, including additional and renewal policies, to Mortgagee and, in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to their respective dates of expiration.

Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard non-contributory mortgagee clause acceptable to Mortgagee. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to Mortgagee the original policy or policies of such insurance. In the event of a foreclosure of the lien Mortgagee, or of a transfer of title to the Premises either in lieu of foreclosure or by purchase at the foreclosure sale, all interest in all insurance policies in force shall pass to Mortgagee, transferee or purchaser, as the case may be.

Within ninety (90) days following the end of each fiscal year of Mortgagor, at the request of the Mortgagee, Mortgagor agrees to furnish evidence of replacement cost, without cost to the Mortgagee, such as are regularly and ordinarily made by insurance companies to determine the then replacement cost of the building(s) and other improvements on the Premises.

6. ADJUSTMENT OF LOSSES WITH INSURER AND APPLICATION OF PROCEEDS OF INSURANCE. In case of the loss or damage by fire or other casualty, Mortgagee is authorized: (a) to settle and adjust any claim under insurance policies which insure such risks; or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. In either case, Mortgagee is authorized to collect and receipt for any such insurance money so long as: (a) each lease applicable to the premises is in full force and effect and each tenant thereunder is not in default and such loss or damage shall not result in the termination or cancellation of any of those leases or give any tenant thereunder the right to terminate or cancel its lease; (b) no insurer denies liability as to any insured or claims any right of participation in any of the Mortgagee's security; and (c) this Mortgagee is not in default; then such insurance proceeds, after deducting therefrom any expense incurred by Mortgagee in the collection thereof, shall be made available by the Mortgagee for the repair, rebuilding or restoration of the building(s) and other improvement(s) on the Premises. In all other cases, such insurance proceeds may, at the option of the Mortgagee, be: (a) applied in reduction of the indebtedness, whether due or not; or (b) held by the Mortgagee and used to reimburse Mortgagor (or any lessee) for the cost of the repair, rebuilding or restoration of the building(s) and other improvement(s) on the Premises. In any event, the building(s) and other improvement(s) shall be repaired, restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the insurance proceeds are made available for repair, rebuilding or restoration, such proceeds shall be disbursed upon the "Disbursing Party" (hereinafter defined) being furnished with satisfactory evidence of the cost of completion thereof and with architects' certificates, waivers of lien, contractors' and subcontractors' sworn statements, title continuations and other evidence of cost and payments so that the Disbursing Party can verify that the amounts disbursed from time to time are represented by completed and in-place work and that said work is free and clear of mechanics' lien claims. No payment made prior to the final completion of the work shall exceed ninety per cent (90%) of the value of the work performed from time to time, and at all times the undischursed balance of such proceeds remaining in the hands of the Disbursing Party shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. If the cost of rebuilding, repairing or restoring the buildings and other improvements may reasonably exceed the sum of FIFTY THOUSAND DOLLARS (\$50,000.00), then the Mortgagee must approve plans and specifications of such work before such work shall be commenced. Any surplus which may remain out of said insurance proceeds, after payment of the cost or repair, rebuilding, restoration and the reasonable charges of the Disbursing Party, shall at the option of the Mortgagee, be applied on account of the indebtedness or paid to any party entitled thereto as the same appear on the records of the Mortgagee. No interest shall be allowed to Mortgagor on any proceeds of insurance held by the Disbursing Party.

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As used in this Paragraph 6, the term "Disbursing Party" refers to the Mortgagee and/or any title insurance company selected by the Mortgagee.

7. STAMP TAX; EFFECT OF CHANGES IN LAWS REGARDING TAXATION. If, by the laws of the United States of America or of any state or subdivision thereof having jurisdiction over the Mortgagor, any tax is due or becomes due in respect to the Note or this Mortgage, the Mortgagor covenants and agrees to pay such tax in the manner required by any such law. The Mortgagor further covenants to reimburse the Mortgagee for any sums which Mortgagee may expend by reason of the imposition of any tax on the issuance of the Note.

In the event of the enactment of any law of the state in which the Premises are located imposing upon the Mortgagee the payment of the whole or any part of taxes, assessments or charges on the lien of this Mortgage, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee: (a) it might be unlawful to require Mortgagor to make such payment; or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law; then and in any such event, the Mortgagee may elect, by notice in writing given to the Mortgagor, to declare all of the indebtedness to be and become due and payable sixty (60) days from the giving of such notice.

8. OBSERVANCE OF LEASE ASSIGNMENT. As additional security for the payment of the Note and for the faithful performance of the terms and conditions contained herein, Mortgagor and its beneficiary or beneficiaries do hereby assign to the Mortgagee all of their right, title and interest as landlords in and to the present leases and all future leases of the Premises. All leases of the Premises are subject to the approval of the Mortgagee as to form, content and tenant(s).

Mortgagor will not and Mortgagor's beneficiary or beneficiaries will not, without Mortgagee's prior written consent: (i) execute assignment or pledge of any rents or any leases of the Premises except an assignment or pledge securing the indebtedness in favor of Mortgagee; or (ii) accept any payment of any installment of rent more than thirty (30) days before the due date thereof; or (iii) make any lease of the Premises except for actual occupancy by the tenant thereunder.

Mortgagor shall not and the beneficiary of Mortgagor, if any, shall nor enter into or permit to be entered into any management contract, assignment or sublease of any lease, license or concession pertaining to the Premises without the prior written approval of Mortgagee having first been obtained and following such approval shall not amend or modify the same without further written approval of Mortgagee.

Mortgagor at its sole cost and expense will: (i) at all times promptly and faithfully abide by, discharge and perform all of the covenants, conditions and agreements contained in all leases of the Premises, on the part of the landlord thereunder to be kept and performed; (ii) enforce or secure the performance of all of the covenants, conditions, and agreements of such leases on the part of the tenants to be kept and performed, but Mortgagor shall not and Mortgagor's beneficiary or beneficiaries shall not modify, amend, cancel, terminate or accept surrender of any lease without prior written consent of Mortgagee; (iii) appear in and defend any action or proceeding arising under, growing out of or in any manner connected with such leases or the obligations, duties or liabilities of the landlord or of any tenants thereunder; (iv) transfer and assign or cause to be separately transferred and assigned to Mortgagee, upon written request of Mortgagee, any lease or leases of the Premises heretofore or hereafter entered into, and make, execute and deliver to Mortgagee upon demand, any and all instruments required to effectuate said assignment; (v) furnish Mortgagee, within ten (10) days after a request by Mortgagee so to do, a written statement containing the names of all tenants and the terms of all leases of the Premises, including the spaces occupied and the rentals payable thereunder; and (vi) exercise within five (5) days of any demand therefor by Mortgagee any right to request from the tenant under any lease of the Premises a certificate with respect to the status thereof.

Nothing in this Mortgage or in any other documents relating to the Note secured hereby shall be construed to obligate Mortgagee, expressly or by implication, to perform any of the covenants of the landlord under any of the leases assigned to Mortgagee or to pay any sum of money or damages therein provided to be paid by the landlord, each and all of which covenants and payments Mortgagor agrees to perform and pay or cause to be performed and paid.

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and the sum of such expenditures shall be secured by this Mortgage, and shall bear interest after demand at the rate specified in the Note applicable to a period when an uncured default exists thereunder, and such interest shall be secured hereby and shall be due and payable on demand.

14. APPLICATION OF PROCEEDS OF FORECLOSURE SALE. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order or priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding Paragraph hereof; second, all other items which may under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any excess to any party entitled thereto as their rights may appear.

15. APPOINTMENT OF RECEIVER OR MORTGAGEE IN POSSESSION. Upon, or at any time after, the commencement of an action to foreclose this Mortgage, the court in which such action was commenced may, upon request of the Mortgagee, appoint a receiver of the Premises either before or after foreclosure sale, without notice and without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and the Mortgagee or any holder of the Note may be appointed as such receiver as Mortgagee in possession. Such receiver or the Mortgagee in possession shall have power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure action and, in case of a sale and a deficiency, during the full statutory period of redemption (if any), whether there be redemption or not, as well as during any further times (if any) when, Mortgagor, except for the intervention of such receiver or Mortgagee in possession, would be entitled to collect such rents, issues and profits, and all other powers which be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court from time to time may authorize the receiver or Mortgagee in possession to apply the net income in its hands in payment in whole or in part of: (a) the indebtedness secured hereby or by any order or judgement foreclosing the lien of this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or the lien of such order of judgement, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

16. RIGHTS CUMULATIVE. Each right, power and remedy conferred upon the Mortgagee by this Mortgage and by all other documents evidencing or securing the indebtedness and conferred by law and in equity is cumulative and in addition to every other right, power and remedy, express or implied, given now or hereafter existing, at law and in equity; and each and every right, power and remedy herein or therein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee; and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of, or discourteance by, the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

17. MORTGAGEE'S RIGHT OF INSPECTION. Mortgagee, its representatives, agents or participants shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

18. EMINENT DOMAIN AND/OR CONDEMNATION. Mortgagor hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. So long as: (a) any applicable lease is in full force and effect and each tenant thereunder is not in default and such taking shall not result in the termination or cancellation of any of those leases or given any tenant thereunder the right to cancel its lease; (b) the Premises require repair, rebuilding or restoration; and (c) this Mortgage is not in default, then any award, after deducting therefrom any expenses incurred in the collection thereof, shall be made available by the Mortgagee for the repair, rebuilding or restoration of the Premises in accordance with plans and specifications to be submitted to and approved by the Mortgagee.

In all other cases, the Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness, whether due or not, or make those proceeds available for repair, restoration or rebuilding of the Premises in accordance with plans and specifications to be submitted to and approved by the Mortgagee. In any case where proceeds are made available for repair, rebuilding or restoration, the proceeds of the award shall be paid out in the same manner and under the same conditions provided in Paragraph 8 hereof for the payment of insurance proceeds toward the cost of repair, rebuilding or restoration. Any surplus which may remain out of said award after payment of such cost of repair, rebuilding, restoration and the reasonable charges of the Disbursing Party shall, at the option of Mortgagee, be applied on account of the indebtedness or paid to any party entitled thereof as the same appear on the records of the Mortgagee. No interest shall be allowed to Mortgagor on account of any proceeds of any award held by the Mortgagee.

19. RELEASE UPON PAYMENT AND DISCHARGE OF MORTGAGOR'S OBLIGATIONS. Mortgagee shall release (in whole or partially) this Mortgage and the lien (in whole or partially) by proper instrument upon payment and discharge of all indebtedness (or applicable agreed portion) secured hereby (including any prepayment charges and late charges provided for herein or in the Note) and upon payment of a reasonable fee to Mortgagee for the preparation and execution of such proper instrument as shall be determined by Mortgagee in its absolute discretion.

20. GIVING OF NOTICE. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the mailing thereof, by certified mail addressed to the Mortgagor or to the Mortgagee, as the case may be, at the respective addresses set forth on the first page hereof or at such other place as any party hereto may by notice in writing designate as a place of notice, shall constitute service of notice hereunder.

21. WAIVER OF DEFENSE. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note.

22. WAIVER OF STATUTORY RIGHTS. Mortgagor shall not and will not (nor shall any beneficiary of Mortgagor) apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement of foreclosure of the lien of this Mortgage, but hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, including its beneficiary, waives any and all right to have the property and estates comprising the Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold at an entirety. Mortgagor does hereby expressly waive any and all rights of redemption from sale under any order or judgement of foreclosure of the lien of this Mortgage on behalf of the Mortgagor, the trust estate and all persons beneficially interested therein and each and every person, except judgement creditors of the Mortgagee in its representative capacity and of the trust estate, acquiring any interest in or title to the Premises subsequent to the date of this Mortgage.

23. FURNISHING OF FINANCIAL STATEMENTS TO MORTGAGEE. Mortgagor covenants and agrees that it will keep and maintain, or cause its beneficiary or beneficiaries from time to time to keep and maintain, books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Premises, which books and records of account shall, at reasonable times and on reasonable notice, be open to the inspection of the Mortgagee and its accountants and other duly authorized representatives. Such books of record and account shall be kept and maintained in accordance with generally accepted accounting principles consistently applied.

23.1 Mortgagor covenants and agrees to furnish to the Mortgagee, within ninety (90) days following the end of every fiscal year applicable to the operation of the improvements on the Premises, a copy of a report of the operations of the improvements on the Premises for the year then ended, to be certified by the Mortgagor or its beneficiary (or a general partner, if the beneficiary of Mortgagor is a partnership or the chief financial officer if the beneficiary of Mortgagor is a corporation) satisfactory to the Mortgagee, including a balance sheet and supporting schedules and containing a detailed statement of income and expenses. Each such certificate to each such annual report shall certify that the certifying party examined such records as were deemed necessary for such certification and those statements are true, correct and complete.

23.2 If Mortgagor fails to furnish promptly any report required by Paragraph 23.1, the Mortgagee may elect (in addition to exercising any other right, remedy and power) to make an audit of all books and records of Mortgagor and its beneficiaries which in any way pertain to the Premises and to prepare the statement or statements which Mortgagor failed to procure and deliver. Such audit shall be made and such statement or statements shall be prepared by an independent Certified Public Accountant to be selected by the Mortgagee. Mortgagor shall pay all expenses of the audit and other services which expenses shall be secured hereby as additional indebtedness and shall be immediately due and payable with interest thereon at the rate set forth in the Note applicable to a period when default exists thereunder.

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20. DUE ON SALE OR FURTHER ENCUMBRANCE CLAUSE. In determining whether or not to make the loan secured hereby, Mortgagee examined the credit worthiness of Mortgagor and/or Mortgagor's beneficiary or guarantors (if applicable), found the same to be acceptable and relied and continues to rely upon same as the means of repayment of the loan. Mortgagee also evaluated the background and experience of Mortgagor and/or its beneficiary or guarantor (if applicable) in owning and operating property such as the Premises, found the same to be acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Mortgagee's security for the loan. It is recognized that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan the security for which is purchased by a party other than the original Mortgagor and/or its beneficiary (if applicable). Mortgagor and/or its beneficiary (if applicable) further recognize that any secondary or junior financing placed upon the Premises, or the beneficial interest of beneficiary in Mortgagor (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrance which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises.

In accordance with the foregoing and for the purpose of (i) protecting Mortgagee's security, both of repayment by the Indebtedness and of value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor and/or beneficiary (if applicable) and Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Premises and the beneficial interest (if applicable) free of subordinate financing liens, beneficiary (if applicable) and Mortgagor agree that if this Paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Premises or any interest therein (whether voluntary or by operation of law) without the Mortgagee's prior written consent shall be an event of default hereunder. For the purpose of, and without limiting the generality of, the preceding sentence, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and therefore an event of default hereunder:

- (a) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, all or any part of the title to the Premises or the beneficial interest or power of direction under the trust agreement with the Mortgagor, if applicable;
- (b) any sale, conveyance, assignment, or other transfer of, or the grant of a security interest in, any share of stock of the Mortgagor, (if a corporation) or the corporation which is the beneficiary or one of the beneficiaries under the trust agreement with the Mortgagor, or of any corporation directly or indirectly controlling such beneficiary corporation;
- (c) any sale, conveyance, assignment, or other transfer of, or the grant of a security interest in, any general partnership interest of the limited partnership or general partnership (herein called the "Partnership") which is the Mortgagor or the beneficiary or one of the beneficiaries under the trust agreement with the Mortgagor;
- (d) any sale, conveyance, assignment, or other transfer of, or the grant of a security interest in, any share of stock of any corporation directly or indirectly controlling any such Partnership.

Any consent by the Mortgagee, or any waiver of an event of default, under this Paragraph shall not constitute a consent to, or waiver of any right, remedy or power of the Mortgagee upon a subsequent event of default under this Paragraph.

30. HAZARDOUS MATERIALS. Mortgagor and its beneficiary (for purposes of this paragraph, collectively "Mortgagor") represents, warrants and covenants that Mortgagor has not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Premises in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best of Mortgagor's knowledge, no prior owner of the Premises or any tenant, subtenant, prior tenant or prior subtenant have used Hazardous Materials on, from, or affecting the Premises in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. Mortgagor shall keep or cause the Premises to be kept free of Hazardous Materials. Without limiting the foregoing, Mortgagor shall not cause or permit the Premises to be used to generate, store, manufacture, refine, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws or regulations, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant or subtenant, a release of Hazardous Materials onto the Premises or onto any other property. Mortgagor shall comply with and ensure compliance by all tenants and subtenants with all applicable federal, state or local laws, ordinances, rules and regulations, whenever and by whomsoever triggered, and shall of, and comply with, and ensure that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. Mortgagor shall (a) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials, on, from or affecting the Premises (i) in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations, and policies, (ii) to the satisfaction of Mortgagee, and (iii) in accordance with the orders and directives of all federal, state and local governmental authorities, and (b) defend, indemnify and hold harmless Mortgagee, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (i) the presence, disposal, or threatened release of any Hazardous Materials which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (ii) any personal injury (including wrongful death) or property damage real or personal arising out of or related to such Hazardous Materials; (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of Mortgagee, which are based upon or in any way related to such Hazardous Materials including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. In the event Mortgagee is foreclosed, or Mortgagor tenders a deed in lieu of foreclosure, Mortgagor shall deliver the Premises to Mortgagee free of any and all Hazardous Materials, so that the condition of the Premises shall conform with all applicable federal, state or local laws, ordinances, rules, regulations affecting the Premises. For purposes of this paragraph 30, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous, regulated toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.); the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1601, et seq.); the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.); and in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. Mortgagor shall secure all permits and approvals and file all notifications required under state and local laws, ordinances and regulations prior to undertaking asbestos abatement activities. The provisions of this paragraph 30 shall be in addition to any and all other obligations and liabilities Mortgagor may have to Mortgagee at common law, and shall survive the transactions contemplated herein.

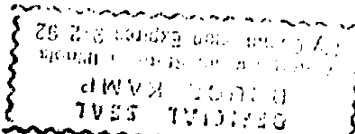
Initials:

31. REVOLVING CREDIT. In the event that the box is checked to signify that this Mortgage secures a revolving credit note, this Mortgage shall secure not only the existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of the Mortgagee, or otherwise, as are made within twenty years from the date hereof, to the same extent as if such future advances were made on the date of execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage, and although there may be no indebtedness outstanding at the time any advance is made. The total amount of indebtedness that is secured hereby may increase or decrease from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum principal amount of the Note, plus interest thereon, and any disbursements made for the payment of taxes, special assessments, or insurance on the Premises, with interest on such disbursements.

32. EXCULPATORY. In the event the Mortgagor executing this Mortgage is an Illinois land trust, this Mortgage is executed by the Mortgagor, not personally, but as Trustee aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee and the Mortgagor hereby warrants that it possesses full power and authority to execute this instrument and it is expressly understood and agreed that nothing contained herein or in the Note shall be construed as creating any liability on the Mortgagor personally to pay the Note or any interest, late charge or premium that may accrue thereon, or any indebtedness secured by this Mortgage, or to perform any covenant, either express or implied herein contained, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as Mortgagor is personally concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness secured hereby shall look solely to the Premises and Collateral hereby mortgaged, conveyed and assigned and to any other security given at any time to secure the payment thereof.

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GIVEN under my hand and official seal this

15th

[Handwritten signature]
day of _____ 19____

personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that (s)he (they) signed, sealed and delivered the said instrument as (his/his/hers) free and voluntary act, for the uses and purpose and in the capacity (if any) therein set forth.

and *MARLENE STERN*

the said County, in the State aforesaid, do hereby certify that

RICHARD STERN AND

I, _____, a Notary Public in and for and residing in

Bruce Kamm

COUNTY OF Cook

STATE OF Illinois

SS

INDIVIDUALS:

By: *Marlene Stern*
Attest: *Secretary*

is: President

By: *Richard Stern*
a n Illinois (state)

Wilmette Theater Corporation

CORPORATION:

Trust No. _____, and not personally,

as Trustee under Agreement dated _____, 19____, and known as

LAND TRUST:

By: _____ a _____ joint venture

a _____ (state) (limited/general) partnership,

(name of partnership or joint venture)

PARTNERSHIP/JOINT VENTURE:

Property of Cook County Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION FOR MORTGAGE LOAN DATED July 15, 1992

IN THE AMOUNT OF \$ 130,000.00 EXECUTED BY _____

Wilmette Theater Corporation

PIN: 05-34-106-009-0000

COMMONLY KNOWN AS: 1122 Central, Wilmette, IL 60091

Lots 7 and 8 in Brathold's resubdivision of Lots 5 and 6 in Dingee's resubdivision of Block 25 of Village of Wilmette, a subdivision of part of Quilmette Reserve, in Section 34, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, IL.

Property of Cook County Clerk's Office

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