

93750495

EXHIBIT D

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

228

This Subordination, Non-Disturbance and Attornment Agreement (the "Agreement") is made as of the 30th day of August, 1993, between Cole Taylor Bank ("Mortgagee"), which has an office at 350 East Dundee Road, Wheeling, Illinois 60090, and Lutheran General HealthSystem, an Illinois not-for-profit corporation ("Tenant"), which has an office at 1775 West Dempster, Park Ridge, Illinois 60068.

RECITALS:

1. Tenant has entered into that certain lease agreement dated March 17, 1993, with American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated March 17, 1993 and known as Trust No. 116729-04 ("Landlord"), as Lessor, which lease agreement covers certain premises (the "Premises") in that certain real property (the "Property") commonly known as 1255 North Milwaukee Avenue, Glenview, Illinois and more particularly described in Exhibit A attached hereto and made a part hereof (herein, said lease agreement, together with any and all amendments, modifications, extensions, renewals, consolidations and replacements thereof now existing or hereafter entered into, are collectively referred to herein as the "Lease");

2. Mortgagee has agreed to make a loan to Landlord, to be secured by the lien of a mortgage from Landlord to the Mortgagee (herein, together with all amendments, modifications, extensions, renewals, consolidations and replacements thereof now existing or hereafter entered into, collectively referred to as the "Mortgage") on the Property; and

3. Tenant has agreed to subordinate the Lease to the lien of the Mortgage and Mortgagee has agreed to grant non-disturbance to Tenant under the Lease on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the Premises and of the sum of One Dollar (\$1.00) by each party in hand paid to the other, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

a. Subordination. The Lease (including all of the terms, covenants and provisions thereof) is and shall be subject and subordinate in all respects to the Mortgage, to the full extent of any and all amounts from time to time secured thereby and interest thereon, all with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease.

b. Attornment. Tenant, for itself and its successors and assigns, agrees that it will attorn to and recognize any purchaser of the Property at a foreclosure sale under the Mortgage or any transferee who acquires the Property by deed in lieu of foreclosure or otherwise, and the successors and assigns of such purchaser or transferee, as its landlord for the unexpired balance (and any extensions or renewals, if previously, at that time or thereafter exercised by Tenant) of the term of the Lease upon the same terms and conditions set forth in the Lease.

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c. **Non-Disturbance.** Mortgagee, for itself and its successors and assigns, for any purchaser at a foreclosure sale under the Mortgage, for any transferee who acquires the Property by deed in lieu of foreclosure or otherwise, and for the successors and assigns of such purchaser and transferee (herein, Mortgagee and each such other party is called a "New Landlord"), hereby covenants and agrees with Tenant that if Mortgagee or other New Landlord shall commence any proceedings to foreclose the Mortgage for any reason whatsoever or shall succeed to the interest of Landlord by foreclosure, deed in lieu thereof or otherwise, provided Tenant is not then in default (after expiration of any applicable grace period) under the Lease, that: (a) Tenant shall not be named as a party defendant in any foreclosure action unless Tenant is deemed to be a necessary party; (b) subject to the next succeeding grammatical paragraph, the Lease, in accordance with its terms, shall remain in full force and effect as a direct indenture of lease between Mortgagee, or such other New Landlord (as the case may be), and Tenant, with the same force and effect as if originally entered into with Mortgagee, or such other New Landlord (as the case may be); and (c) Tenant's possession of the Premises and Tenant's rights and privileges under the Lease shall not be diminished, interfered with or disturbed by such Mortgagee or such other New Landlord by such foreclosure under the Mortgage or by any such attempt to foreclose or to succeed to the interests of Landlord by foreclosure, deed in lieu thereof or otherwise.

If Mortgagee or any other New Landlord shall succeed to the interest of Landlord under the Lease, Tenant agrees as follows:

i. Mortgagee or such other New Landlord shall not be: (i) subject to any credits, offsets, defenses, claims or counterclaims which Tenant might have against any prior landlord (including Landlord); (ii) bound by any rent or additional rent which Tenant shall have paid more than one (1) month in advance to any prior landlord (including Landlord); (iii) bound by any covenant to undertake or complete any improvement to the Premises or the Property; or (iv) bound by any amendment or modification to the Lease, or waiver of any provision of the Lease, which has not been consented to in writing by Mortgagee;

ii. No New Landlord (including, without limitation, Mortgagee) shall be liable for: (i) any act or omission of any prior landlord (including Landlord); (ii) return of any security deposit made by Tenant to Landlord unless such New Landlord shall have actually received such security deposit from Landlord; or (iii) any payment to Tenant of any sums, or the granting to Tenant of any credit, in the nature of a contribution towards the cost of preparing, furnishing or moving into the Premises or any portion thereof; and

iii. Tenant shall look solely to the Property for recovery of any judgment or damages from Mortgagee or such other New Landlord, and neither Mortgagee, such other New Landlord, any partner, officer, director, shareholder or agent of them or any successor or assign or any of the foregoing shall have any personal liability, directly or indirectly, under or in connection with the Lease or this Agreement or any amendment or amendments to either thereof made at any time or times, heretofore or hereafter, and Tenant hereby forever and irrevocably waives and releases any and all such personal liability. The limitation of liability provided in this paragraph is in addition to, and not in limitation of, any limitation on liability applicable to Mortgagee or such other New Landlord provided by law or by any other contract, agreement or instrument.

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d. **Mortgagee's Consent.** Landlord's consent, approval or waiver under or with respect to the Lease or the Premises or any matter related thereto shall not be effective unless such consent, approval or waiver is accompanied by the written consent of Mortgagee. Without limiting the generality of the foregoing, without the prior written consent of Mortgagee, Tenant will not (a) enter into any agreement amending or terminating the Lease, (b) cancel the term of, or surrender, the Lease, or (c) assign or sublet all or any part of the Premises, except only pursuant to any assignment or sublease which, under the express provisions of the Lease, Tenant is entitled to make without the consent of the Landlord.

e. **Landlord's Default.** Tenant hereby agrees to provide Mortgagee with written notice of any casualty damage to the Premises and any default under the Lease by the Landlord and to provide Mortgagee the greater of (a) thirty (30) days or (b) such reasonable period of time as is necessary thereafter to cause such damage to be repaired (if Landlord is obligated under the Lease to repair or cause such damage to be repaired) or to remedy such default, as the case may be, prior to exercising any right or remedy of Tenant under the Lease. Notwithstanding the foregoing, Tenant agrees that Mortgagee shall have no obligation to remedy any such default.

f. **Estoppel Certificate.** Tenant agrees at any time and from time to time to execute, deliver and acknowledge to Landlord, to Mortgagee or to any third party designated by Landlord or by Mortgagee within ten (10) days following Landlord's or Mortgagee's written request therefor, (a) a statement in writing certifying that the Lease is in full force and effect, that Landlord is not in default thereunder (or specifying any defaults by Landlord which Tenant alleges), that rent has not been prepaid more than one (1) month in advance, and specifying any further information about the Lease or the Premises which Landlord or Mortgagee or said third party may reasonably request; (b) a statement in writing that Tenant will recognize the Mortgagee as assignee of the Landlord's rights under the Lease; and (c) a statement in writing acknowledging or denying receipt of notice of any conditional or security assignment of the Lease to any third party. Tenant understands that Mortgagee and/or prospective purchasers, other mortgagees or lessors of the Premises or any part thereof will rely on such certificates. Tenant's obligation to deliver such certificates within ten (10) days as described above is a material obligation of Tenant hereunder and under the Lease.

g. **Further Subordination.** Tenant, for itself and its successors and assigns, agrees that, without the prior written consent of Mortgagee, Tenant will not (a) enter into any subordination agreement with any person other than Mortgagee; or (b) agree to attorn to or recognize any purchaser of the Property at any foreclosure sale under any lien other than that of the Mortgage or any transferee who acquires the Property by deed in lieu of foreclosure or otherwise under any lien other than that of the Mortgage (provided, however, that this provision shall not be deemed to constitute Mortgagee's consent to the placing of any lien other than the Mortgage on the Property).

h. **Insurance Proceeds and Condemnation Awards.** Tenant hereby agrees that any interest of Tenant in any insurance, condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises shall be subordinate to the interests of Mortgagee in such proceeds or awards. Tenant and Mortgagee further agree that the terms and provisions of Articles 16, 17 and 22 of the Lease, as the case may be, shall control and prevail in all instances with regard to insurance, condemnation and eminent domain proceeds.

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i. **Notice.** Each notice, demand or other communication in connection with this Agreement shall be in writing and shall be deemed to be given to and served upon the addressee thereof on the earlier of (a) actual delivery to such addressee at its address set out above, or (b) the third business day after the deposit thereof in the States mails, registered or certified mail, return receipt requested, first class postage prepaid, addressed to such addressee at its address set out above. By notice complying with this section, any party from time to time may designate a different address in the forty-eight (48) contiguous continental United States as its address for the purpose of the receipt of notice hereunder.

j. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.


k. **Recording.** The parties hereto agree that this Agreement may be recorded in the public records of the county in which the Property is located.

l. **Counterparts.** This Agreement may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.

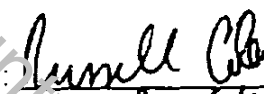
IN WITNESS WHEREOF the parties hereto have executed and delivered this document as of the day and year first above written.

[SEAL]

Attest:

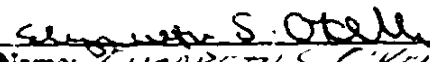

Name: Randall B. Soderman
Title: V.P.

COLE TAYLOR BANK

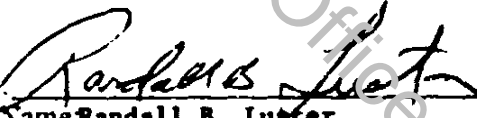
By: 
Name: Thays Cole
Title: V.P.

[SEAL]

Attest:


Name: ELIZABETH S. KELLY
Title: ASSISTANT SECRETARY

LUTHERAN GENERAL
HEALTHSYSTEM, an Illinois
not-for-profit corporation

By: 
Name: Randall B. Luster
Title: Senior Vice President & Chief Financial Officer

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STATE OF ILLINOIS)
COUNTY OF COOK) SS.

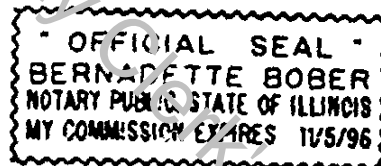
I, BERNADETTE BOBER, a notary public in and for said County, in the State aforesaid,
DO HEREBY CERTIFY that RUSSELL COLE,
personally known to me to be the VIC President of Cole Taylor Bank, and personally known
to me to be the same person whose name is subscribed to the foregoing instrument, appeared
before me this day in person and acknowledged that as such, he/she signed and delivered said
instrument pursuant to proper authority given by the Board of Directors of said bank, as his/her
free and voluntary act, and as the free and voluntary act and deed of said bank, for the uses
and purposes therein set forth.

GIVEN under my hand and notarial seal this 30 day of August, 1993.

Bernadette Bober
Notary Public
{Seal}

My Commission expires:

11/5/96



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STATE OF Illinois)
COUNTY OF Cook) SS.

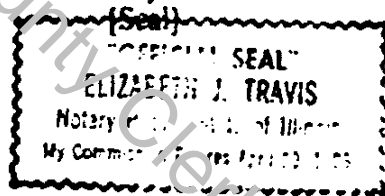
I, Elizabeth Travis, a notary public in and for said County, in the State aforesaid,
DO HEREBY CERTIFY that RANDALL B. LUSTER
personally known to me to be the ^{Senior Vice President} ~~owner~~ of Lutheran General HealthSystem,
a not-for-profit corporation organized and existing under the laws of the State of Illinois, and
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 said instrument pursuant to proper authority given by said corporation, as
his/her 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 30th day of August, 1993.

Elizabeth Travis
Notary Public

My Commission expires:

April 29, 1996



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EXHIBIT D-1

LEGAL DESCRIPTION

Lot 1 in the Blood Center of Northern Illinois, Inc. Resubdivision being part of the Southwest 1/4 of Section 32, Township 42 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N. 04-32-101-032

Property Address: 1255 N. Milwaukee Ave., Glenview

Prepared By: & mail to:

John A. Goldstein, Esq.

Mark Harris

212 E. Ohio St., Suite 500

Chicago, IL 60601

BOY 333
108

PROPERTY OF COOK COUNTY CLERK'S OFFICE

93750495