

UNOFFICIAL COPY

94334497

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT, made the 29th day of March, 1994, between FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE, as Trustee under Trust Agreement dated August 23, 1991 and known as Trust Number 2274 (the "Trustee") and OLIVIA LIMITED PARTNERSHIP, an Illinois Limited Partnership, (the "Beneficiary") (Trustee and Beneficiary are hereinafter collectively called "Assignor"), and BANK OF BUFFALO GROVE, an Illinois banking corporation, (hereinafter called "Assignee").

WITNESSETH

DEPT OF RECORDING 437.50
121111 TRAN 4974 04/14/94 10:02:00
156516 * 94 4334497
COOK COUNTY RECORDER

THAT WHEREAS, the Assignor is indebted to Assignee for money borrowed in the aggregate principal sum of **One Hundred Seventy Thousand and 00/100's DOLLARS (\$170,000.00)** as evidenced by a certain Commercial Construction Mortgage Note of even date herewith (herein called the "Note") which Note is secured by a certain Construction Mortgage given by Assignor to Assignee under even date herewith (which Construction Mortgage is herein called the "Mortgage" and the terms of which Note and which Mortgage are hereby incorporated herein by reference) upon certain property (herein called "said Property") situated in the Village of Bartlett, in the County of Cook and State of Illinois, to wit:

See Exhibit "A" attached hereto and made a part hereof

P.I.N. #06-28-103-003

NOW, THEREFORE, to secure the payment of (a) all sums becoming due under said Note according to the tenor and effect of said Note and any and all extensions renewals and substitutions therefore, (b) all other amounts becoming due from Assignor to Assignee under the Mortgage (said sums and other amounts being herein collectively called the "Indebtedness") and (c) the faithful performance by Assignor of all the covenants, conditions, stipulations and agreements in any of this Assignment of Rents and Leases, in the Mortgage, or in any other instrument given in connection with the borrowing of the indebtedness and referred to in said Note or the Mortgage, and also in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt whereof which is hereby

THIS INSTRUMENT PREPARED BY
AND RECORD AND RETURN TO:
Janice Bierer
Bank of Buffalo Grove
10 E. Dundee Road
Buffalo Grove, Illinois 60089
(708) 537-3900

ADDRESS OF PROPERTY:
530-538 Phillip Drive
Lot 3 in Four Seasons
Subdivision
Bartlett, Illinois 60103

LAND TITLE COMPANY XL-8038-7X

MAIL TO

94334497

37 30
37

UNOFFICIAL COPY

acknowledged, the Assignor does by these presents, GRANT, TRANSFER, and ASSIGN to the Assignee all the rents, issues and profits now due and which may hereafter become due, whether during or after the term of the Mortgage, under or by virtue of any lease, whether written or verbal, or any letting of or any agreement for the use or occupancy of any part of said Property, heretofore or hereafter made or agreed to, it being the intention of the undersigned to hereby establish an absolute transfer and assignment to Assignee of all such leases and agreements made or agreed to by either the undersigned or by the Assignee under the powers herein granted, and of all the avails thereof.

Without limitation of any of the legal rights of Assignee as the absolute assignee of the rents, issues, and profits of said Property, and by way of enumeration only, Assignor hereby irrevocably covenants and agrees that in the event of any default by Assignor under the said Note or under the Mortgage above described, whether before or after the Note is declared to be immediately due, or whether before or after the institution of any legal proceedings to foreclose the lien of the Mortgage, or before or after any sale thereon, forthwith upon demand of Assignee, Assignor will surrender to the Assignee and the Assignee shall be entitled to take actual possession of the said Property or of any part thereof, personally or by its agents or attorneys, as for condition broken, and in Assignee's discretion Assignee may, with or without force and with or without process of law, enter upon, take and maintain possession of all or any part of said Property together with all documents, books, records, papers, and accounts of Assignor relating thereto, and may exclude Assignor and Assignor's agents or servants wholly therefrom and may in Assignee's own name as Assignee under this Assignment hold, operate, manage, and control the said Property and conduct the business thereof, either personally or by Assignee's agents and may, at the expense of said Property from time to time either by purchase, repair, or construction make all necessary or proper repairs, renewals, replacements, useful alterations, additions, betterments, and improvements to the said Property as to Assignee may seem judicious and may insure and reinsure the same, and may lease said Property in such parcels and for such times and on such terms as to the Assignee may seem fit, including leases for terms expiring beyond the maturity of the indebtedness secured by the Mortgage, and may cancel any lease or sublease for any cause or on any ground which would entitle Assignor to cancel the same, and may manage and operate the said Property and carry on the business thereof as Assignee shall deem best and do everything in or about the said Property that Assignor might do. In every such case Assignor hereby irrevocable authorizes and appoints Assignee, in the name, place and stead of Assignor, to collect and receive all earnings, revenues, rents, issues, profits and income of the said Property and any part thereof, and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments, and

94334497

UNOFFICIAL COPY

improvements, and all payments which may be made for taxes, assessments, insurance and prior or proper charges on the said Property or any part thereof, including the just and reasonable compensation for the services of the Assignee for services rendered in connection with the operation, management and control of the said Property and the conduct of the business thereof, and such further sums as may be sufficient to indemnify Assignee against any liability, loss or damage on account of any matter, or thing done in good faith in pursuance of the rights and powers of Assignment hereunder, to apply any and all monies arising as aforesaid:

(1) To payment of the interest from time to time accrued and unpaid on the said Note, or any renewals, extensions, or substitutions thereof;

(2) To the payment of any and all other charges secured by or created under the said Mortgage;

(3) To the payment of the principal of the said Note or any extensions, renewals, or substitutions thereof, from time to time remaining outstanding and unpaid;

(4) To the payment of any other indebtedness of Assignor to Assignee; and

(5) To the payment of the balance, if any, after the payment in full of the terms hereinbefore referred to in 1), 2), 3), and 4) to Assignor.

Assignor hereby ratifies and confirms everything that Assignee may do under or by virtue of the foregoing.

Notwithstanding any other provisions hereof, so long as there shall exist no default by Assignor in the payment of the Indebtedness or in the performance of any obligation, covenant or agreement herein or in said Mortgage or other instrument contained, Assignor shall have the right to collect when, but not before due, all rents, issues and profits from said Property and to retain, use and enjoy the same.

Without limiting the generality of the foregoing, this Assignment covers all of the leases demising all or portions of the said Property.

Concerning said leases, Assignor hereby covenants and agrees to and with the Assignee that without the written consent of the Assignee first obtained, Assignor will not:

(1) Cancel or terminate any lease for any reason whatsoever irrespective of how such right of cancellation or termination is obtained, or permit the cancellation or termination thereof; or accept a surrender of any lease;

UNOFFICIAL COPY

(2) Reduce the rent provided for in any lease; or modify any lease in any way, either orally or in writing; or grant any concession in connection with any lease; either orally or in writing.

(3) Consent to any assignment of the interest of the tenant in any lease, or to any sub-letting thereof;

(4) Accept any rent payable under any lease in advance of the time when the same is payable under the terms thereof; and any of the above acts, if done without the written consent of the Assignee, shall be null and void.

(5) Permit any lease to come before the Mortgage and shall subordinate all such leases to the liens of the Mortgage.

Concerning each such lease, Assignor further covenants, warrants and represents that, except as heretofore disclosed in writing to Assignee, there are no defaults not existing under any such leases nor is there any state of facts which with the giving of notice or lapse of time or both would constitute a default under any such lease and further that Assignor shall promptly notify Assignee of any notice received by Assignor claiming that a default has occurred under any such lease on the part of Assignor.

Any default on the part of Assignor hereunder shall constitute a default of Assignor under the Mortgage.

This Assignment shall be construed as a covenant running with the land, shall be assignable by Assignee and shall be binding upon and inure to the benefit of each of the parties hereto and their respective executors, administrators, legal representatives, successors and assigns.

The failure of Assignee or any of the Assignee's agents or attorneys, successors or assigns to make use of any of the terms, provisions, and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any of Assignee's rights under the terms hereof, but Assignee or Assignee's agents or attorneys, successors, or assigns shall have full right, power and authority to enforce this Assignment or any of the terms, provisions or conditions hereof, and exercise the powers hereunder, at any time or time that shall be deemed fit.

In accepting this Assignment the Assignee herein does not assume nor shall it be under any obligation whatever to perform any of the covenants, undertakings or promises on the part of the Lessor to be performed under any lease which may be entered into concerning the said Property.

If the Indebtedness shall be paid in full when or before due and Assignor shall keep observe and fully perform all the

UNOFFICIAL COPY

covenants, conditions, stipulations and agreements herein contained, then this assignment shall be null and void and Assignor will, promptly upon Assignor's demand therefore, release and discharge this Assignment.

Any notice, demand, request or other communication desired to be given or required pursuant to the terms hereof shall be in writing and shall be deemed given when personally served or on the second (2nd) day following deposit of the same in the United States Mail via registered or certified mail, return receipt requested, postage prepaid, addressed to the Assignor at the address set forth below or to the Assignee at the Bank's main office set forth above or to such other address as either the Assignor or the Assignee notifies the other party in writing.

The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which Assignee shall have under the Note or any other instrument constituting security for the Note, or at law or in equity.

This Assignment may not be amended, modified or changed nor shall any waiver of any provision hereof be effective as against Assignee, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

Assignor hereby releases and waives all rights, if any, of Assignor under or by virtue of the Homestead Exemption Laws of the State of Illinois.

This Assignment shall be governed and controlled by the laws of the State of Illinois.

UNOFFICIAL COPY

FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE, as Trustee, executes this Assignment of Rents and Leases as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee, and it is expressly understood and agreed by the Mortgage herein and by every person now or hereafter claiming any right or security hereunder that nothing contained herein or in the Note secured by this Mortgage shall be construed as creating any liability on the Trustee personally to pay said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder or to perform any covenants either express or implied herein contained, all such liability, if any, being expressly waived, and that any recovery on this Mortgage and the Note secured hereby shall be solely against and out of the premises hereby conveyed by enforcement of the provisions hereof and of said Note, but this waiver shall in no way affect the personal liability of any co-maker, co-signer, endorser or guarantor of said Note.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Rents and Leases on the day and year first above written.

FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE
not personally, but solely as Trustee as aforesaid

BY: *Tom O'Neil*

Its Trust Officer

Attest: *[Signature]*

Assistant Trust Officer

OLIVIA LIMITED PARTNERSHIP, an Illinois limited partnership

BY: Western Counties Development Corporation, General Partner

BY: *[Signature]*

Kenneth S. Struck, President

94334497

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
) ss:
COUNTY OF)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that

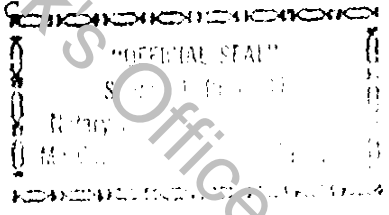
Tom Olen Trust Officer of FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE, and

Carolyn S. Sime Assistant Trust Officer of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such

Tom Olen and Carolyn S. Sime respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said corporation, as Trustee, for the uses and purposes therein set forth; and the said Trust Officer did also then and there acknowledge that he/she, as custodian of the corporate seal of said corporation, did affix the said corporate seal of said corporation to the instrument as his/her own free and voluntary act, and as the free and voluntary act of said corporation, as Trustee, for the uses and purposes therein set forth.

Given under my hand and official seal, this 5th day of April, 1994.

Thomas J. ...
Notary Public



Commission expires:
3-11-96

94334497

UNOFFICIAL COPY

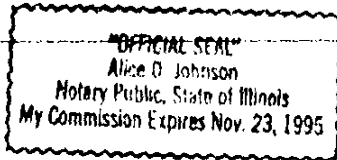
STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that **Kenneth S. Struck** personally known to me to be the same person whose name is subscribed to the foregoing instrument as the **President of WESTERN COUNTIES DEVELOPMENT CORPORATION**, the **General Partner of OLIVIA LIMITED PARTNERSHIP**, an Illinois limited partnership, appeared before me this day in person and he acknowledged that he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 31st day of March, 1994.

Alice D. Johnson
Notary Public

Commission Expires:



9433-1497

UNOFFICIAL COPY

EXHIBIT "A" LEGAL DESCRIPTION

Parcel 1:

Lot 3 in Four Seasons Final Subdivision, and P.U.D. Plat, Phase 1, being a subdivision of part of the Southwest 1/4 of Section 28, Township 41 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded October 18, 1988 as document 88479485, in Cook County, Illinois.

Parcel 2:

Easements appurtenant to and for the benefit of Parcel 1, as established by and set forth in the Declaration of Easements, Restrictions and Covenants for the Four Seasons Club Townhouse Association, recorded October 18, 1988 as document 88479485, for ingress and egress.

Property of Cook County Clerk's Office

94334497

UNOFFICIAL COPY

Property of Cook County Clerk's Office

20110316