

UNOFFICIAL COPY

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PREPARED BY:

Erika Schmidt

WHEN RECORDED RETURN TO:

NBD BANK

1603 Orrington Avenue

Evanston, Illinois 60204

ATTN: John Bernhard

DEPT-01 RECORDING \$23.00
T#0012 TRAN 8051 12/08/95 10:14:00
#8027 \$ CG #-95-854858
COOK COUNTY RECORDER



Assignment of Real Estate Leases and Rentals

Assignment dated December 6, 1995 by Chrysalis, L.L.C., An Illinois Limited Liability Corporation (the "Mortgagor")

whose address is P.O. Box 408557, Chicago, Illinois 60646 to NBD Bank, an Illinois banking corporation (the "Bank"), whose address is 211 South Wheaton Avenue, Wheaton, Illinois 60187.

The Mortgagor has executed and delivered to the Bank a Mortgage on the following described real property (the "Premises").

Land located in the City of Chicago Cook County, Illinois:

Parcel 1: Lots 1, 2 and 3 in Collins and Morris' Subdivision of lots 22 and 23 in the Subdivision of block 6 in Buena Park and the west 205 feet of lots 18 and 21 of Iglehart's Subdivision of the west 1/2 of the southeast 1/4 of section 17, township 40 north, range 14, east of the third principal meridian, in Cook County, Illinois.

Parcel 2: Lot 4 (except the west 50 feet thereof) in Henry J. Peat's Subdivision of lot 24 in the subdivision of block 6 in Buena Park and the west 205 feet of lots 18 and 21 in Iglehart's Subdivision of the west 1/2 of the south east 1/4 of section 17, township 40 north, range 14 east of the third principal meridian, in Cook County, Illinois.

Commonly known as: 4003-4009 N. Kenmore Avenue/1022-24 W. Irving Park Road, Chicago, Illinois (Parcel 1)

Tax Parcel Identification No.: 14-17-404-031, 14-17-404-032, 14-17-404-033, 14-17-401-043

For the purpose of further securing the Mortgage and the underlying debt secured by the Mortgage (the "Debt"), the Mortgagor assigns to the Bank all present and future leases, either oral or written, and all extensions, renewals and replacements of the leases, or holdovers under the leases, and all rents and security deposits derived from the Premises and the buildings and improvements on it. Copies of existing leases and lease amendments have been delivered to the Bank. The Mortgagor will provide copies of any future leases and lease amendments to Bank.

The Bank shall have complete authority in case of default in the terms of the Mortgage or the Debt to demand and collect the rents, to take possession of the Premises without having a receiver appointed, to rent and manage the premises and to apply the net proceeds of the rent toward the Debt secured by the Mortgage until it is paid in full, or until title is obtained through foreclosure or otherwise. The Mortgagor consents to the appointment of a receiver if this is believed necessary by the Bank. Taking possession of the Premises or collecting rent shall not constitute a cure or waiver of any existing default.

MORTGAGOR REPRESENTS AND COVENANTS AS FOLLOWS:

1. It will fulfill and perform its obligations under all leases, and give the Bank prompt notice of any default in the performance of the terms of the leases by either the Mortgagor or the tenant, together with copies of notices sent or received by the Mortgagor in connection with any lease.

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- It shall not in any way amend, assign, cancel or terminate any lease, except a surrender, nor accept any payment of rent more than one month in advance, without the prior written consent of the Bank, except that the Mortgagor may increase lease rentals without the Bank's consent.
- It will appear and defend or prosecute any action growing out of any lease at its own cost.
- It has not previously assigned any of its rights under any lease; it has not accepted rent more than 30 days in advance of accrual; there is no present default by any tenant; all existing leases are in full force and effect and unmodified, except as shown; and to the best of its knowledge, no person or entity other than authorized tenants is in possession of the Premises.
- It will not execute any other assignment of the leases or lease rentals as security for any debt without the prior written consent of the Bank.
- The Bank may but shall not be required to make any payment including necessary costs, expenses and reasonable attorney fees, or perform any action required of the Mortgagor under any lease, without releasing the Mortgagor from the obligation to do so and without notice to or demand on the Mortgagor. The Mortgagor will, immediately upon demand, reimburse the Bank for all such costs, expenses and fees, together with interest at the highest rate permitted by any instrument evidencing any of the Debt, all of which shall be added to the Debt.
- The Bank shall not be obligated by this Assignment to perform or discharge any obligation under any lease, and the Mortgagor agrees to indemnify the Bank and hold it harmless from all liability or damage which it may incur under any lease and from all claims and demands which may be asserted against it by reason of any alleged obligation on its part to perform any term of any lease. Should the Bank incur any liability, damages or costs associated with its defense, those amounts shall be secured by this Assignment and the Mortgage and the Mortgagor shall immediately reimburse the Bank upon demand for all such amounts together with interest at the highest rate permitted by any instrument evidencing any of the Debt.

Any notice which either party may give or is required to give under this Assignment shall be made in writing and shall be effective when sent as registered mail, postage prepaid, addressed to the other party at the addresses first set forth above or at such other address as the parties shall provide to each other in writing.

If any provision of this Assignment is in conflict with any statute or rule of law or is otherwise unenforceable for any reason whatsoever, then that provision shall be void to the extent of the conflict or unenforceability, and shall be severed from but shall not invalidate any other provision of this Assignment. No waiver by the Bank of any right or remedy granted or failure to insist on strict performance by the Mortgagor shall affect or act as a waiver of any other right or remedy of the Bank, nor affect the subsequent exercise of the same right or remedy by the Bank for any subsequent default by the Mortgagor, and all rights and remedies of the Bank are cumulative.

This Assignment binds and benefits the parties and their respective successors and assigns. If there is more than one Mortgagor, their obligations under this Assignment shall be joint and several.

This Assignment shall be governed by Illinois law except to the extent it is preempted by Federal law or regulations.

WAIVER OF JURY TRIAL: The Bank and the Mortgagor, after consulting or having had the opportunity to consult with counsel, knowingly, voluntarily and intentionally waive any right either of them may have to a trial by jury in any litigation based on or arising out of this Assignment or any related instrument or agreement, or any of the transactions contemplated by this Assignment, or any course of conduct, dealing, statements (whether oral or written), or actions of either of them. Neither the Bank nor the Mortgagor shall seek to consolidate, by counterclaim or otherwise, any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. These provisions shall not be deemed to have been modified in any respect or relinquished by either the Bank or the Mortgagor except by a written instrument executed by both of them.

Executed by the Mortgagor on the date first written above.

MORTGAGOR:

Chrysellis, L.L.C.

A. Jay Gallagher
 By: Eighth Street Company D/B/A Gallagher Development & Realty (50% Member)
 A. Jay Gallagher, III
 Its: President

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ACKNOWLEDGMENT

State of Illinois

County of COOK

I, K. C. PISCITELLO, a Notary Public in and for said County and State, certify that A. Jay Gallagher and Ann M. Tice is/are personally known to me to be the same person(s) whose name(s) ARE subscribed to the foregoing instrument, and appeared before me this day in person, and acknowledged that the y signed and delivered the instrument as his/her free and voluntary act, for the uses and purposes set forth.

Given under my hand and notarial seal 6 14 95.

My Commission Expires:

OFFICIAL SEAL
 K. C. PISCITELLO
 Notary Public, State of Illinois
 My Commission Expires 7/28/97

K. C. Piscitello
 Notary Public