

UNOFFICIAL COPY

96540688

. DEPT-01 RECORDING 443.00
. T#0012 TRAN 1342 07/16/96 14:34:00
. 43393 & RC *-96-540688
. COOK COUNTY RECORDER

(M2) (LWP1) (2576/1000) 78A 00

ASSIGNMENT OF RENTS AND LEASES (Borrower and Beneficiary)

This Assignment of Rents and Leases ("Assignment") is made as of July 12, 1996, by LaSalle National Trust, N.A., not personally, but as successor trustee of the Trust Agreement dated November 19, 1945, and known as Trust No. 4954, ("Borrower"), having a mailing address at 120 S. LaSalle Street, Chicago, IL 60603 and by William F. Purtell and James E. Purtell (collectively, "Beneficiary"), having a mailing address at 1137 Church Street, Glenview, IL 60025 (Borrower and Beneficiary are sometimes hereinafter collectively referred to as "Assignor"), to U.S. Loan Limited Partnership ("Lender"), having a mailing address at 351 West Hubbard, Suite 707, Chicago, Illinois 60610, and pertains to the real estate described in Exhibit A, which is attached hereto and hereby made a part hereof ("Premises").

I

RECITALS

1.1 Note. Borrower has executed and delivered to Lender a Promissory Note ("Note") of even date herewith, wherein Borrower promises to pay to the order of Lender the principal amount of Seventy Five Thousand and 00/100 Dollars (\$75,000.00) in repayment of a loan ("Loan") from Lender to Borrower in like amount.

1.2 Other Loan Documents. As security for the repayment of the Loan in addition to this Assignment, there have been executed and delivered to Lender a mortgage ("Mortgage"), of even date herewith from Borrower to Lender, granting to Lender a first lien on the Premises, and certain other security described therein

BOX 333-CTI

96540688

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(the Mortgage and all other documents, now or hereafter given to evidence or further secure the repayment of the Loan are hereinafter referred to collectively as the "Loan Documents").

1.3 Assignment Required. As security for the repayment of the Loan and any other amounts due or becoming due under the Note or under the Loan Documents and as security for the performance and discharge of each and every term, covenant and condition contained in the Note and the Loan Documents, Assignor is required by the Loan Documents to execute and deliver to Lender this Assignment. In addition, as Beneficiary is the sole beneficiary of Borrower, it is in the direct financial interest and to the benefit of Beneficiary for Beneficiary to execute and deliver this Assignment as an inducement to Lender to make the Loan.

II

THE GRANT

2.1 Assignment. As further security for the repayment of the Loan and in consideration of the matters recited hereinabove, Assignor does hereby sell, assign and transfer to Lender all right, title and interest of Assignor (or either of them) in, to and under those certain leases affecting the described Premises as of the date hereof, and any other lease or any letting, or any agreement therefor, whether written or verbal, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by Lender under the powers herein granted and all guarantees, amendments, extensions and renewals of said leases or any of them (such leases, agreements therefor, guarantees, amendments, extensions and renewals are hereinafter referred to individually as a "Lease" and collectively as the "Leases"), together with all rents, issues, income, deposits, proceeds, profits and avails now due and which may hereafter become due under or by reason of any of the Leases.

2.2 Power of Attorney. Assignor does hereby irrevocably appoint Lender as its true and lawful attorney with full power of substitution and with full power, in the name and stead of Assignor (with or without taking possession of the Premises) to rent, lease or let all or any portion of the Premises to any party or parties at such price and upon such terms as Lender in its sole discretion may determine, and to demand, collect, receive and give complete acquittance for any and all of the rents, issues, income, deposits, proceeds, profits and avails now due, or that may hereafter become due, under any and all of the Leases, and at Lender's discretion to file any claim, to take any other action, to institute any proceeding or to make any settlement of any claim, either in its own name or in the name of Assignor or otherwise, which Lender may

96540688

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

deem necessary or desirable in order to collect and enforce the payment of such rents, issues, income, deposits, proceeds, profits or avails, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession of the Premises pursuant to the provisions set forth below.

2.3 No Revocation by Assignor. This Assignment confers upon Lender a power coupled with an interest and it cannot be revoked by Assignor.

III

GENERAL AGREEMENTS

3.1 Rents Available. Borrower represents and covenants and Beneficiary represents, warrants and covenants that no rent or installments for real estate taxes or operating expenses has been or will be paid by any person in possession of any portion of the Premises in excess of one installment thereof paid in advance and that no payment of rent to become due for any portion of the Premises has been or will be waived, conceded, released, reduced, discounted or otherwise discharged or compromised by Assignor without the prior written consent of Lender. Assignor waives any right of set-off against any person in possession of any portion of the Premises. Assignor agrees that it will not assign any of such rents, issues, income, deposits, proceeds, profits or avails.

3.2 New Leases or Lease Modification. Assignor shall not enter into any new Lease or agree to any modification of the terms, or a voluntary surrender, of any Lease without the prior written consent of Lender.

3.3 Management of Premises. At all times while Lender is not in actual possession of the Premises, Assignor shall use its best efforts to manage the Premises, or to cause the Premises to be managed, in accordance with sound business practices.

3.4 Future Assignments. To further confirm the assignment made pursuant to this Assignment, Assignor further agrees, from time to time at Lender's request, to execute and deliver any instrument to confirm the assignment and transfer made to Lender of any and all future Leases pertaining to all or any portion of the Premises pursuant to this Assignment by an instrument in form satisfactory to Lender and to execute and deliver to Lender, immediately upon demand of Lender, all such further assurances and assignments pertaining to this Assignment as Lender shall from time to time require.

3.5 Authorization to Tenants. Assignor hereby authorizes and directs each tenant named in each of the Leases, or any other future tenant or occupant of the Premises, upon receipt

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

from Lender of written notice to the effect that Lender is then the holder of the Note and Mortgage and that a default exists thereunder or under this Assignment, to pay over to Lender all rents, issues, income, deposits, proceeds, profits or avails arising or accruing under any of the Leases or from the Premises and to continue to do so until otherwise notified by Lender.

IV

DEFAULTS AND REMEDIES

4.1 Exercise of Rights. Although it is the intention of Assignor and Lender that this Assignment be a present assignment, it is expressly understood and agreed, notwithstanding anything contained herein to the contrary, that Assignor shall have the right to collect at the time of, but not prior to, the date provided for the payment thereof, all rents, issues, income, deposits, proceeds, profits or avails under the Leases or from the Premises and to retain, use and enjoy the same in accordance with the provisions of this Assignment or of the Loan Documents and unless and until a default has occurred under the Mortgage or any other default in the payment of interest or principal due under the Note or in the performance or observance of any of the other provisions of the Note, the Mortgage, this Assignment, or any of the other Loan Documents has occurred, Lender shall not exercise any of the rights and powers conferred upon it herein, but nothing herein contained shall be deemed to affect or impair any rights Lender may have under the Note or the Loan Documents.

4.2 Right of Possession. In any case in which Lender has a right, under the provisions of the Mortgage, to institute foreclosure proceedings (whether before or after a declaration that the entire principal amount secured thereby shall be immediately due, before or after institution of legal proceedings to foreclose the lien thereof, or before or after any sale thereunder), Assignor agrees, immediately upon demand of Lender, to surrender to Lender and Lender (personally or by its agents or attorneys) shall be entitled to take actual possession of the Premises or any portion thereof, and in any such case Lender in its sole discretion (a) may enter upon and take and maintain possession of all or any portion of the Premises, together with all the documents, books, records, papers and accounts of Assignor or the then owner of the Premises relating thereto; (b) may exclude Assignor and its employees and agents wholly therefrom; and (c) may, as attorney-in-fact or agent of Assignor or in its own name as Lender and under the powers herein granted, hold, operate, manage and control the Premises and conduct business thereon either personally or by its agents, with full power to use such measures, legal or equitable, as in its sole discretion may be deemed proper or necessary to enforce the payment of all rents, issues, income, deposits, proceeds, profits and avails of the Premises (including, without limitation, actions for the recovery of rent, actions in forcible detainer and actions in

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

distress for rents). Assignor hereby grants to Lender full power and authority to exercise each and every one of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Assignor, and with full power to cancel or terminate any Lease (or any sublease) or agreement pertaining to the Premises for any cause or on any ground that would entitle Assignor to cancel the same, to elect to disaffirm any Lease (or any sublease) or any such agreement made subsequent to the Mortgage or subordinated to the lien thereof, to make all necessary or proper additions, betterments and improvements to the Premises that Lender in its sole discretion deems appropriate, to insure (and reinsure) the same for all risks incidental to Lender's possession, operation and management thereof, and to receive all rents, issues, income, deposits, proceeds, profits and avails from the Premises.

4.3 Application of Rents. Upon or at any time after a default has occurred under the Mortgage or any other default of the nature described in paragraph 4.1 above has occurred, Lender, in the exercise of the rights and powers conferred upon it herein, without in any way waiving any such default, shall have full power, but without obligation, either in person or by an agent or a receiver appointed by a court, to use and apply the rents, issues, income, deposits, proceeds, profits and avails of the Premises to the payment of or on account of the following, in such order as Lender may in its sole discretion determine:

(a) operating expenses of the Premises (including, without limitation, costs of management and leasing thereof, which shall include reasonable compensation to Lender and its agents, if management be delegated thereto, and lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), establishing any claims for damages, and premiums on insurance authorized hereunder or required to be maintained pursuant to the Loan Documents;

(b) taxes, special assessments and water and sewer charges on the Premises now due or that may hereafter become due;

(c) the cost of any and all repairs, rebuilding, restoration, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Premises (including, without limitation, the cost from time to time incurred to install or replace ranges, refrigerators and other appliances or other personal property therein, and the cost of placing the Premises in such condition as will, in the sole judgment of Lender, make them readily rentable or salable);

(d) any principal, interest or other indebtedness secured by the Mortgage or any deficiency that may result from any foreclosure sale pursuant thereto;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(e) costs, expenses and attorneys' fees incurred in connection with the enforcement of this Assignment or any of Lender's rights under or amounts of principal and interest and other costs and expenses due from Assignor or any of them pursuant to the Note or the Loan Documents; and

after satisfying all of the foregoing in full, Lender shall pay any remaining funds to Assignor or its successors or assigns, as their interests and rights may appear.

4.4 No Obligation by Lender; Indemnity. Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Leases or other agreements pertaining to the Premises, and Assignor shall and does hereby agree to indemnify and hold Lender harmless from any and all claims, demands, liability, loss, cost, expense and damage that Lender may or might incur under any Leases or any such agreements or under or by reason of the assignment thereof and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or conditions contained in the Leases or any such agreements. Should Lender incur any such claims, demands, liability, loss, cost, expense or damage under the Leases or any such agreements, under or by reason of this Assignment thereof, or in the defense of any claims or demands relating thereto, Assignor shall reimburse Lender for the amount thereof (including, without limitation, costs, expenses and reasonable attorneys' fees) immediately upon demand with interest at the Default Rate (as that term is defined in the Note) from the date of such demand and all such amounts shall, until paid, be and become additional amounts secured hereby and by the Loan Documents.

4.5 Limitation of Liability. Nothing contained in this Assignment shall be construed as making or constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Lender pursuant to the provisions hereinafter set forth. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises upon Lender, nor for the carrying out of any of the terms and conditions of any of the Leases; nor shall it operate to make Lender responsible or liable for any waste committed on the Premises by any tenant or other party in possession or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger, and Assignor hereby agrees for itself and for all other persons claiming by, through or under Assignor that in the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Assignor.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

4.6 Continued Effectiveness. It is expressly understood that no judgment or decree entered on any debt secured or intended to be secured by any of the Loan Documents shall operate to abrogate or lessen the effect of this Assignment, but the same shall continue in full force and effect until such time as the payment and discharge of any and all indebtedness evidenced or secured by such Loan Documents, in whatever form such indebtedness may be, in full and all bills incurred by virtue of the authority contained herein have been paid in full out of the rents, issues, income, deposits, proceeds, profits and avails of the Premises by Assignor or by any guarantor of payment of the Note, or until such time as this Assignment is voluntarily released. This Assignment shall also remain in full force and effect during the pendency of any foreclosure proceedings pursuant to the Mortgage, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless the indebtedness secured by the Mortgage is fully satisfied before the expiration of any period of redemption.

4.7 Nature of Rights and Remedies. All rights and remedies set forth in this Assignment are cumulative, and Lender may recover judgment thereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby; and no such right or remedy set forth in this Assignment shall be deemed exclusive of any of the remedies or rights granted to Lender in the Note, in the Mortgage or in any of the Loan Documents. Unless expressly provided to the contrary in this Assignment, no consent or waiver, express or implied, by any interested party referred to herein to or of any breach or default by any other interested party referred to herein in the performance by such other party of any obligations contained herein shall be deemed a waiver by such party of the performance of, or a consent to the failure to perform, any obligations contained herein or a consent to the performance by any such other interested party referred to herein of any obligations contained herein.

4.8 Additional Security or Release of Security. Lender may take or release other security for the payment of any amounts due under the Loan Documents; may release any person primarily or secondarily liable therefor; and may apply any other security held by it to the satisfaction of any such indebtedness without prejudice to any of its rights under this Assignment.

V

MISCELLANEOUS

5.1 Notices. All notices, demands, consents, requests, or other communications that are either required or contemplated in

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

connection with this Assignment shall be in writing, and shall be deemed given to the intended recipient thereof upon the earlier of : (a) actual delivery thereof at the address designated below for such intended recipient; (b) the first business day after deposit with a nationally recognized, reputable commercial courier service, such as Federal Express Company, with all charges prepaid; or (c) the third business day after the deposit thereof at any main or branch United States post office with postage prepaid for delivery thereof via certified or registered mail (return receipt requested) and in any such case addressed as follows:

If to Assignor: LaSalle National Trust, N.A.
Trust No. 4954
120 S. LaSalle Street
Chicago, IL 60603

If to Lender: U.S. Loan Limited Partnership
351 West Hubbard Street, Suite 707
Chicago, Illinois 60610

By notice complying with the foregoing provisions of this section, each of Assignor and Lender may from time to time change the above addresses applicable to them for the purposes hereof, except that any such notice shall not be deemed delivered until actually received. Copies of notices are for informational purposes only and the failure to give or to receive copies of notices shall not be deemed a failure to give notice.

5.2 Governing Law. The place of negotiation, execution and delivery of this Assignment, the location of the Premises, and the place of payment and performance under the Loan Documents being the State of Illinois, this Assignment shall be construed and enforced according to the laws of that State.

5.3 Interpretation. The headings of sections and paragraphs in this Assignment are for convenience of reference only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions hereof. As used in this Assignment, where the context so requires, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable. In the case of any conflict between the terms of this Assignment and the terms of the Mortgage or the Loan Documents, the terms of the Mortgage and the Loan Documents shall prevail.

5.4 Severability. If any term, covenant or provision contained in this Assignment or in any of the other Loan Documents, or the application thereof to any person or circumstance, shall be determined to be void, invalid, illegal or unenforceable to any extent or shall otherwise operate to invalidate this Assignment or any such Loan Document, in whole or part, then such term, covenant

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

or provision only such be deemed not contained in this Assignment or in such Loan Document; the remainder of this Assignment and such other Loan Documents shall remain operative and in full force and effect and shall be enforced to the greatest extent permitted by law as if such clause or provision had never been contained herein or therein; and the application of such term, covenant or provision to other persons or circumstances shall not be affected, impaired or restricted thereby.

5.5 Successors and Assigns. This Assignment and all provisions hereof shall inure to the benefit of Lender and shall be binding upon Borrower, Beneficiary and their respective successors, assigns and legal representatives, and all other persons or entities claiming under or through Borrower or Beneficiary. The words "Borrower" and "Beneficiary," when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured by this Assignment or any part thereof, whether or not they have executed the Note or this Assignment. The word "Lender," when used herein, shall include Lender's successors, assigns and legal representatives, including all other holders, from time to time, of the Note. This Assignment shall run with the land constituting the Premises.

5.6 Exculpation. This Assignment is executed and delivered by LaSalle National Trust, N.A., not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, provided that LaSalle National Trust, N.A. hereby personally warrants that it possesses full power and authority to execute and deliver the same. It is expressly understood and agreed that nothing contained in this Assignment shall be construed as creating any liability on said LaSalle National Trust, N.A. personally to pay the indebtedness secured by this Assignment or any interest that may accrue thereon or to perform any covenant, express or implied, contained herein, all such personal liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder and that so far as said LaSalle National Trust, N.A. is personally concerned, Lender shall look to the Mortgaged Property (as that term is defined in the Mortgage) and the rights hereby assigned for the payment of such indebtedness.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, Borrower and Beneficiary have caused this Assignment to be executed as of the date hereinabove first written.

BORROWER:

LaSalle National Trust, N.A.,
not personally, but as Trustee as
aforesaid.

By: Rosemary Collins
Its: Assistant Vice President

Attest:

By: Nancy A. Stack
Its: Assistant Secretary

BENEFICIARY:

William F. Purtell
William F. Purtell

James E. Purtell
James E. Purtell

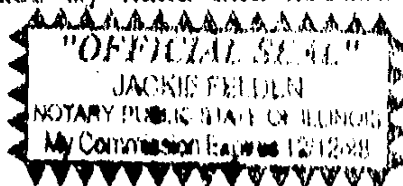
ACKNOWLEDGEMENTS

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Rosemary Collins, the Assistant Vice President of LaSalle National Trust, N.A. and Nancy A. Stack, the Assistant Secretary of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument and as such Asst. Vice President and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of July, 1996.



Jackie Felden
Notary Public

UNOFFICIAL COPY

Property of Cook County Clerk's Office

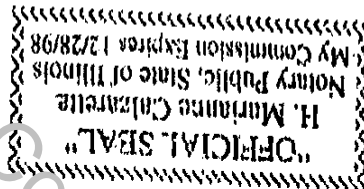
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said county and state aforesaid, do hereby certify that James E. Purtell, personally known to me to be the same person whose name is subscribed to the foregoing instrument, and appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act and for the uses and purposes therein set forth.

GIVE under my hand and official seal, this 12th day of July, 1996.

Y. J. Marianne Calzavara
Notary Public



UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said county and state aforesaid, do hereby certify that William F. Purtell, personally known to me to be the same person whose name is subscribed to the foregoing instrument, and appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act and for the uses and purposes therein set forth.

GIVE under my hand and official seal, this 12th day of July, 1996.

H. Marianne Calzavara
Notary Public

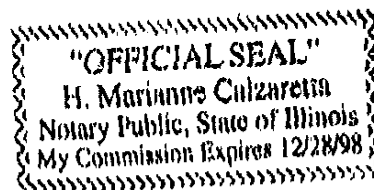


EXHIBIT A

Legal Description of the Real Estate

LOT 3 IN THE SUBDIVISION OF THE EAST 83 FEET OF LOTS 45, 46 AND 47 (EXCEPT THE NORTH 4 FEET OF LOT 45) AND THAT PART OF LOT 45 WEST OF THE EAST 83 FEET AND SOUTH OF THE NORTH 4 FEET AND NORTH OF THE SOUTH 4 FEET OF SAID LOT 45, ALL IN BLOCK 1 IN POTTER PALMER'S LAKE SHORE DRIVE ADDITION TO CHICAGO, IN THE CANAL TRUSTEES SUBDIVISION OF THE SOUTH FRACTIONAL 1/4 OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 20 E. Bellevue Place, Chicago, IL 60611
PIN#: 17-03-202-008-0000

After recording return to:

Leon Heller
U.S. Loan Limited Partnership
351 W. Hubbard, Suite 707
Chicago, IL 60610

This instrument was prepared by:

Leon Heller
U.S. Loan Limited Partnership
351 W. Hubbard, Suite 707
Chicago, IL 60610

Land Trustee-Borrower - (08/31/93)

UNOFFICIAL COPY

Property of Cook County Clerk's Office