

UNOFFICIAL COPY

97494354

This Instrument prepared by /
and after recording return to /
Erik J. Langeland /
American National Bank /
and Trust Company of Chicago /
33 North LaSalle Street /
Chicago, IL 60690 /

DEPT-03 RECORDING 935.00
T:0012 TRAN 5865 07/09/97 12:37:00
17000 3 ETR 97-494354
COOK COUNTY RECORDER

76 7109302 AF
Call

35

ASSIGNMENT OF RENTS AND LEASES (REAL PROPERTY)

THIS ASSIGNMENT is made this 3rd day of July, 1997, by and between JJB, L.L.C., an Illinois limited liability company (hereinafter referred to as the "Assignor"), and American National Bank and Trust Company of Chicago, a National Banking Association (hereinafter referred to as "Assignee").

WITNESSETH

I. ASSIGNOR, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, transfers, sets over, conveys and assigns to Assignee all right, title, and interest of the Assignor in, to and under any and all leases and subleases together with any and all future leases hereinafter entered into by Assignor, including, without limitation, the Master Leases described herein (collectively the "Leases") affecting the subject property commonly known as 1644 North Honore, Chicago, Illinois and legally described in Exhibit "A" attached hereto and made a part hereof and all guaranties, amendments, extensions, and receivables of said Leases and all rents, income, and profits which may now or hereafter be or become due and owing under the Leases or on account of the use of the subject property.

II. THIS ASSIGNMENT is given to secure:

A. The payment of the indebtedness (including any amendments, modifications, extensions or renewals thereof) evidenced by that certain Note (Secured) of Assignor of even date herewith in the maximum aggregate principal sum of TWO MILLION FIFTY THOUSAND AND 00/100 DOLLARS (\$2,050,000) (hereinafter referred to as the "Note") and secured by

BOX 333-CTI

97494354

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

a certain First Mortgage (hereinafter referred to as the "Mortgage") of even date herewith encumbering the subject property; and

B. The payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of the Mortgage, and any other instrument constituting security for the Note (collectively, the "Security Documents"); and

C. The performance and discharge of each and every term, covenant and condition of Assignor contained in that certain Loan Agreement by and among Assignor and Assignee (the "Loan Agreement"), the Note and the Security Documents.

III. ASSIGNOR HEREBY COVENANTS, AGREES, REPRESENTS AND WARRANTS THAT:

A. Within ten (10) days from the date hereof, each of Jeff McClusky & Associates Inc., 1644 North Honore, L.L.C. and Olive Real Estate Group, L.L.C. (which are entities affiliated and controlled (or to be affiliated and controlled) by Messrs. Jeff McClusky, Joe Shanahan and M. Brad Wood, III, respectively) will each execute and deliver to Assignor a Master Lease covering all three (3) floors at the subject property in such form and substance as shall be acceptable to Assignee.

B. The sole ownership of the Master Leases will be vested in Assignor, and that Assignor has not, and shall not, perform any acts or execute any other instruments which might prevent Assignee from fully exercising its rights under any of the terms, covenants and conditions of this Assignment.

C. The Leases will be in full force and effect, will be valid and enforceable in accordance with their terms may not be materially altered, modified, amended, terminated, cancelled, renewed or surrendered nor will any of the material terms and conditions thereof be waived in any manner whatsoever except as approved in writing by Assignee.

D. Presently, there are no leases of the subject property and Assignor shall not permit any leases (other than the Master Leases) or subleases to be entered into with respect to the subject property without Assignee's prior written consent.

E. None of the Leases nor any guaranty thereof or sublease thereunder shall be materially altered, modified, amended, terminated, cancelled or surrendered nor any term or condition thereof be waived without the prior written approval of the Assignee.

F. There shall be no defaults existing under any of the Leases and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

G. Assignor shall give prompt notice to Assignee of any notice received by Assignor claiming that a default has occurred under any of the Leases on the part of the Assignor, together with a complete copy of any such notice.

H. Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.

I. Assignor will not permit any Lease to come before the Mortgage or the other Security Documents and shall subordinate all leases to the lien of the Mortgage and the other Security Documents.

J. Assignor shall provide Assignee with copies of any and all subleases proposed to be executed under the Leases, before any such subleases are in fact executed and delivered, all of which shall be subject to Assignee's prior approval.

IV. RIGHTS AND REMEDIES UPON DEFAULT

A. This Assignment is absolute and is effective immediately. Notwithstanding the foregoing, until notice is sent to the Assignor in writing that an Event of Default has occurred, and has not been cured, under the terms and conditions of the Loan Agreement, the Note or the Security Documents (which notice is hereafter called the "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the subject property.

B. In the event of any default at any time in any of the Loan Agreement, the Note or the Security Documents, Assignee may, at its option after service of a written Notice, receive and collect all such rents, income and profits as they become due, from the subject property and under any and all Leases of all or any part of the subject property. Assignee shall thereafter continue to receive and collect all such rents, income and profits, as long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings, and if there is a deficiency, during any redemption period.

C. Assignor hereby irrevocably appoints Assignee its true and lawful attorney with full power of substitution and with full power for Assignee in its own name and capacity or in the name and capacity of Assignor, from and after the service of the Notice of any default not having been cured, to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the subject property, and at Assignee's discretion to file any claim to take any other action or proceeding and make any settlement of any claims, in its own name or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. Lessees of the subject property are hereby expressly authorized and directed to pay any and all amounts due Assignor pursuant to the Leases directly to Assignee or such nominee as Assignee may designate in writing delivered to and received by such Lessee.

97494354

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

D. From and after service of the Notice of any default, Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Assignee or its designees to enter upon the subject property, or any part thereof, with or without force and with or without process of law, and take possession of all or any part of the subject property together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor relating thereto, and may exclude the Assignor, its agents and servants, wholly therefrom. Assignor hereby grants full power and authority to Assignee to exercise all rights, privileges and powers herein granted at any and all times after service of the Notice of any default that has not been cured, without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the subject property and of any indebtedness or liability of Assignor to Assignee, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the subject property or of making the same rentable, attorney's fees incurred in connection with the enforcement of this Assignment, and of principal and interest payments due from Assignor to Assignee on the Note and the Security Documents. Assignee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the Assignor under any of the Leases and does not assume any of the liabilities in connection with or growing out of the covenants and agreements of Assignor in the Leases. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the subject property, or parts thereof, upon Assignee, nor shall it operate to make Assignee liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the subject property by any lessee under any of the Leases or any other person, or for any dangerous or defective condition of the subject property or for any negligence in the management, upkeep, repair or control of the subject property resulting in loss or injury or death to any lessee, licensee, employee or stranger.

V. CUMULATIVE RIGHTS

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 Loan Agreement, the Note and the Security Documents, or at law or in equity.

VI. SEVERABILITY

If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

VII. NOTICE

All Notices to be given pursuant to this Assignment shall be sufficient and shall be deemed served if mailed postage prepaid, certified or registered mail, return receipt requested, to the addresses of the parties hereto as delineated below, or to such other address as a party may request in writing. Any time period provided in the giving of any Notice hereunder shall commence three (3) days after the date such Notice is deposited in the mail.

IF TO ASSIGNEE: American National Bank and Trust Company of Chicago
33 North LaSalle Street
Chicago, Illinois 60690
Attn: Mr. Erik J. Langeland

COPY TO: Parzik, Frank & Samotny Ltd.
150 South Wacker Drive
Suite 900
Chicago, Illinois 60606
Attn: Steven M. Prebish, Esq.

IF TO ASSIGNOR: JJB, L.L.C.
1644 North Monroe
Chicago, Illinois 60614
Attn: Mr. Jeff McClusky

COPY TO: Sachnoff & Weaver Ltd.
30 South Wacker Drive
Suite 2900
Chicago, Illinois 60606
Attn: Lance R. Rodgers, Esq.

VIII. SUCCESSORS & ASSIGNS

The term "Assignor" and "Assignee" shall be construed to include the heirs, personal representatives, successors, assigns, beneficiaries, partners and affiliates thereof. The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

IX. MODIFICATIONS

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.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, Assignor has caused this instrument to be signed and sealed as of the date first above written.

ASSIGNOR:

JJB, L.L.C.

By: Jeff McClusky
Jeff McClusky, Member

AND

By: M. Brad Wood, III
M. Brad Wood, III, Member

Property of Cook County Clerk's Office

97494354

UNOFFICIAL COPY

Property of Cook County Clerk's Office

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 _____ personally known to me to be the _____ of _____, a _____, and _____ personally known to me to be the _____ of said _____, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____ they signed and delivered the said instrument pursuant to authority given by the _____ of said _____, as their free and voluntary act, and as the free and voluntary act of said _____, as aforesaid, for the uses and purposes therein set forth.

Given under my hand and official seal this ____ day of _____, 19__.

Notary Public

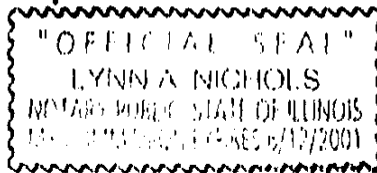
OR

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 John J. McCusky and M. Scott [unclear] 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 he/she/they signed, sealed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal this 2nd day of July, 1992.

Lynna A. Nichols
Notary Public



97494354

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "A"

TO

ASSIGNMENT OF RENTS AND LEASES

DATED JULY 31, 1997

LEGAL DESCRIPTION OF PREMISES

LOTS 61, 62, 63 AND 64 IN BLOCK 35 IN ER. SMITH SUBDIVISION IN SHEFFIELD'S ADDITION BEING THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly Known As: 1644 North Honore, Chicago, Illinois

PIN No.: 14-31-426-029-0000

97494354

UNOFFICIAL COPY

Property of Cook County Clerk's Office