

SUBORDINATE ASSIGNMENT

THIS SUBORDINATE ASSIGNMENT, dated as of February 15, 1990, is from S & A PROPERTIES CORP. (the "Assignor"), a Delaware corporation, having its principal place of business at 12404 Park Central Drive, Dallas, Texas 75251, to THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America and having its principal place of business at One Constitution Plaza, Hartford, Connecticut 06115, Attn: Corporate Trust Department (the "Corporate Trustee"), LESE AMATO, having an address c/o The Connecticut Bank and Trust Company, National Association, One Constitution Plaza, Hartford, Connecticut 06115 (the "Individual Trustee"), Andrew M. Smulian, the Fidelity Company, E. Peter Kane, Thomas F. Wells, and Charles E. Odom (collectively, the "Deed of Trust Trustees") (the Corporate Trustee, the Individual Trustee and the Deed of Trust Trustees collectively, the "Assignees") as trustees for the benefit of the holders of the Notes hereinafter referred to.

W I T N E S S E T H:

Assignor, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, desires to secure further and provide a means of payment of certain Series B Guaranteed Second Priority Mortgage Notes (collectively, the "Notes") issued by Assignor under and pursuant to the terms of that certain Second Priority Indenture of Mortgage, Deed of Trust and Security Agreement (as the same may from time to time be supplemented or amended, the "Indenture"), dated as of the date hereof, between Assignor and Assignees, as indenture trustees thereunder. All capitalized terms utilized herein and not defined herein shall have the meanings set forth in the Indenture.

NOW THEREFORE, Assignor, as additional security for and as a means of payment of the principal of, premium, if any, and interest and all other sums payable on the Notes and under the Indenture, hereby presently and directly, but subject and subordinate in all respects to the interests and rights of the Shawmut National Bank, N.A. and Max Goldsmith (the "Series A Assignees") under and pursuant to a prior assignment of even date herewith,

THIS INSTRUMENT PREPARED BY

~~AND WHEN RECORDED RETURN TO:~~

Richard D. Rudder, Esq.
Brown & Wood
One World Trade Center
New York, New York 10048
Attorney at Law

BOOK 1688P2409

assigns, transfers and sets over to the Assignees for the benefit of all present and future holders of the Notes, all of Assignor's right, title and interest in and to a certain lease (as the same may from time to time be supplemented or amended, the "Lease"), dated as of the date hereof, between Assignor, as lessor, and S & A Restaurant Corp., as lessee (the "Lessee"), covering (i) certain parcels of real property (such parcels both individually and collectively referred to herein as the "Land"), located in the states of Alabama, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia and more particularly described in Schedule A hereto, and (ii) the buildings, structures, Fixtures (as defined in the Lease) and other improvements now or hereafter located thereon (collectively, the "Improvements"), (the property and rights described in clauses (i) and (ii) above, collectively, the "Leased Properties" and individually, a "Leased Property"); including in such assignment, but not limited to:

(a) all payments due and to become due under the Lease, whether as rent, damages, purchase price, insurance payments, condemnation awards or otherwise,

(b) all claims, rights, powers, privileges and remedies of the lessor under the Lease,

(c) all rights of the lessor under the Lease to exercise any election (including, without limitation, the election of remedies) or option, to give or receive any notice, consent, waiver or approval, or to accept any surrender of a Leased Property or any part thereof, and

(d) all rights of the lessor under the Lease to accept or reject any offer to purchase a Leased Property, made pursuant to any section of the Lease,

together with full power and authority, in the name of Assignor or otherwise, to demand, receive, enforce, collect or receipt for any or all of the foregoing, to endorse or execute any checks or other instruments or orders, to file any claims and to take any action which Assignees may deem necessary or advisable in connection therewith, Assignor hereby irrevocably constituting Assignees the attorneys-in-fact of Assignor for such purposes, which appointment is coupled with an interest and is irrevocable. No exercise by Assignees of any rights of Assignor shall release Assignor from its obligations under the Lease.

Unless an Event of Default (as defined in Section 701 of the Indenture) has occurred which has not been waived, (A) all amounts of Basic Rent specified in paragraphs a(ii), b(ii), c(ii) and d(ii) of Schedule B to the Lease, (B) the Pro-Rata Share (as defined in the Indenture) of the Base Sales Price (as defined in

the Lease) paid for any Leased Property thereunder plus the applicable premium thereon, shall be paid and applied as provided in Sections 1202, 1203, 1205 or 1206, as applicable, of the Indenture, and (C) all insurance proceeds and condemnation awards shall be paid and applied as set forth in the Lease.

If, under the terms of the Lease, Assignor is obligated to take certain actions upon the fulfillment of conditions precedent set forth in the Lease, then nothing contained in this Agreement shall be construed to require Assignor to seek or obtain any consent, approval or waiver of or from the Assignees prior to taking any such action.

If an Event of Default (as defined in Section 701 of the Indenture) shall have occurred under the Indenture and not been waived and the maturity of the Notes shall have been accelerated, all moneys covered by this Subordinate Assignment shall be paid to the Assignees who shall hold all moneys received and shall apply the same in the manner specified in Section 1204 of the Indenture; provided, however, that the rights of the Assignees hereunder shall be subject and subordinate to the prior rights of the Series A Assignees.

Neither this Subordinate Assignment nor any action or inaction on the part of Assignees shall, without the written consent of Assignees, constitute an assumption on their part of any obligation under the Lease; nor shall Assignees have any obligation to make any payment to be made by Assignor under the Lease, or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which have been assigned to Assignees or to which they may be entitled hereunder at any time or times. No action or inaction on the part of Assignees shall adversely affect or limit in any way the rights of Assignees hereunder or under the Lease.

Assignor shall have no right whatsoever to take any discretionary action under the Lease without the written consent of Assignees, but shall take any and all such action as may from time to time be requested by Assignees to effectuate the purposes of this Subordinate Assignment. Assignor shall, however, remain liable to perform all of the obligations of the lessor under the Lease and shall enforce the Lease (subject to the prior written approval of Assignees with respect to any action proposed to be taken by Assignor) in accordance with its terms, maintain the Lease in full force and effect, and comply with all the terms thereof. Assignor hereby waives, to the fullest extent permitted by law, any claims or causes of action which it may have against Assignees for any action, or failure to act, by Assignees with respect to enforcement of the Lease or reservation of any of the rights or privileges of either the Assignor or Assignees with respect thereto.

Assignor represents and warrants that (a) the Lease is a valid agreement and is in full force and effect, and has not been assigned or encumbered, except pursuant to the Indenture, this Subordinate Agreement and that certain First Priority Indenture of Mortgage, Deed of Trust and Security Agreement and that certain assignment of the Lease, each dated the date hereof, given to the Series A Assignees, and (b) no default exists under the Lease.

Assignor covenants that so long as this Subordinate Assignment shall remain in effect it will not assign or encumber, to anyone other than Assignees and the Series A Assignees, the whole or any part of the rents, moneys, claims and rights hereby assigned, and that it will not, without the prior written approval of Assignees (any agreement entered into without such consent to be void), amend, modify or cancel the Lease, accept the surrender thereof or of any payments due thereunder prior to the due date thereof, give any consent or waiver or make any acceptance, election or rejection thereunder (including, without limitation, acceptance or rejection of any offer by the Lessee to purchase a Leased Property), or take or omit to take any action, the taking or omission of which might result in an alteration or impairment of the Lease or this Subordinate Assignment or any of the rights created by any of such instruments.

Assignor irrevocably appoints Assignees as its true and lawful attorneys, in its name and stead and on its behalf with full power of substitution, to execute and deliver such deed, bill of sale, and other instruments as Assignees may consider reasonably necessary or appropriate in the event that the Lessee purchases a Leased Property pursuant to any provision of the Lease, and Assignor hereby ratifies and confirms all that such attorneys or any substitute shall lawfully do by virtue hereof. If so requested by Assignees, Assignor shall execute and deliver such instruments as may reasonably be requested to ratify and confirm such action.

Assignor, at its expense, will execute and deliver all such instruments and take all such action as Assignees from time to time may reasonably request in order to obtain the full benefits of this Subordinate Assignment and of the rights and powers herein created.

This Subordinate Assignment shall terminate upon payment in full of the principal of, and interest and premium, if any, on the Notes and any other indebtedness secured by the Indenture. Assignees, at Assignor's expense, will execute and deliver such instruments as Assignor may reasonably request to evidence such termination.

With respect to the Leased Properties, this Subordinate Assignment shall be governed by and construed in accordance with the laws of the state in which the relevant Leased Property is located.

Each Holder, by its acceptance of a Note, agrees (1) that, except in the case of fraud or willful misconduct, it will look solely to (i) the assets subject to the lien of the Indenture and the income and proceeds received by the Assignees therefrom to the extent available for distribution to such Holder as therein provided, (ii) the Series B Subordinated Guarantor under the Series B Subordinated Guaranty and (iii) the collateral securing the Second Priority Limited Recourse Guaranty, and the collateral under the Security Agreements and the Pledge Agreement, and (2) that, except in the case of fraud or willful misconduct, no officer, director, employee or shareholder of the Assignor shall be liable to any Holder or the Assignees for any amounts payable under any Notes or this Subordinate Assignment.

Upon the occurrence of any Event of Default specified in the Indenture or upon the breach of any warranty or covenant contained in this Subordinate Assignment, the Assignees may to the extent permitted by Law and, subject and subordinate in all respects to the rights of the Series A Assignees, at their option:

(a) in the name, place and stead of the Assignor and without becoming a mortgagee-in-possession (i) enter upon, manage and operate the Leased Property or retain the services of one or more independent contractors to manage and operate all or any part of the Leased Property; (ii) make, enforce, modify and accept surrender of the Lease; (iii) obtain or evict tenants, collect, sue for, fix or modify the Rents and enforce all rights of the Assignor under the Lease, and (iv) perform any and all other acts that may be necessary or proper to protect the security of this Subordinate Assignment;

(b) with or without exercising the rights set forth in subparagraph (a) above, give or require the Assignor to give notice to any or all tenants under the Lease authorizing and directing them to pay all Rents under the Lease directly to the Assignees; and

(c) without regard to any waste, adequacy of the security or solvency of the Assignor, apply for the appointment of a receiver of the Leased Property, to which appointment the Assignor hereby consents, whether or not foreclosure proceedings have been commenced under the Indenture has occurred.

The exercise of any of the foregoing rights or remedies and the application of the rents, profits and income shall not cure or waive any Event of Default (or notice of default) under the Indenture or invalidate any act done pursuant to such notice.

All rentals collected by the Assignee, subject and subordinate in right of payment to the rights of the Series A Assignees, or the receiver, each month shall be applied as follows:

(a) to payment of all reasonable fees of the receiver approved by the court;

(b) to payment of all tenant security deposits then owing to tenants under the Lease (with respect to Leased Properties in the State of Minnesota pursuant to the provisions of Minnesota Statutes Section 504.20);

(c) to payment of all prior or current real estate taxes and special assessments with respect to the Leased Property, or if the Indenture requires periodic escrow payments for such taxes and assessments, to the escrow payments then due;

(d) to payment of all premiums then due for insurance required by the provisions of the Indenture, or if the Indenture requires periodic escrow payments for such premiums, to the escrow payments then due;

(e) to payment of expenses incurred for normal maintenance of the Leased Property;

(f) if received prior to any foreclosure sale of the Leased Property, to the Assignees for payment of the indebtedness secured by the Indenture or this Subordinate Assignment, but no such payment made after acceleration of the indebtedness shall affect such acceleration;

(g) if received during or with respect to the period of redemption, if any, following a foreclosure sale of the Leased Property:

(i) if the purchaser at the foreclosure sale is not the Assignees, first, subject and subordinate in all respects to the rights of the Series A Assignees, to the Assignees to the extent of any deficiency of the sale proceeds to repay the indebtedness secured by the Indenture or this Subordinate Assignment, second to the purchaser to be retained as a credit to the redemption price, but if the Leased Property is not redeemed, then to the purchaser of the Leased Property;

(ii) if the purchaser at the foreclosure sale is the Assignees, subject and subordinate in all respects to the rights of the Series A Assignees, to the Assignees to the extent of any deficiency of the sale proceeds to repay the indebtedness secured by the Indenture or this Subordinate Assignment and the balance to

be retained by the Assignees as a credit to the redemption price, if any, but if the Leased Property is not redeemed, then to the Assignees, whether or not any such deficiency exists.

The rights and powers of the Assignees under this Subordinate Assignment are subject and subordinate in all respects to the rights of the Series A Assignees, and the application of rentals under this paragraph shall continue until expiration of the redemption period from any foreclosure sale, whether or not any deficiency remains after the foreclosure sale.

Nothing herein and no actions taken pursuant to this Subordinate Assignment shall be construed as constituting the Assignees as mortgagees in possession.

For purposes of enforcing the rights and remedies granted to the Assignees herein, the following Deed of Trust Trustees shall have all the rights and benefits under this Assignment granted to the Assignees with respect only to the Leased Properties indicated below and such Deed of Trust Trustees shall take any and all actions contemplated herein for and on behalf of the Assignees only upon the direction of the Corporate Trustee.

(a) With respect to all Leased Properties located in Florida, Andrew M. Smulian, whose address is c/o Tew Jorden & Schulte, 701 Brickell Avenue, Miami, Florida 33131-2801, shall be the Deed of Trust Trustee;

(b) With respect to all Leased Properties located in North Carolina, the Fidelity Company, whose address is Post Office Drawer 84, Winston-Salem, North Carolina 27102, Attn: Dennis W. McNames, shall be the Deed of Trust Trustee; and

(c) With respect to all Leased Properties located in Virginia, E. Peter Kane whose address is c/o Hunton & Williams, 3050 Chain Bridge Road, 6th Floor, Fairfax, Virginia 22030, shall be the Deed of Trust Trustee;

(d) With respect to all Leased Properties located in Tennessee, Thomas E. Wells, whose address is c/o First American Title Insurance Company of the Midwest, 100 North Main Building, Memphis, Tennessee 38103, shall be the Deed of Trust Trustee;

(e) With respect to all Leased Properties located in Texas, Charles E. Odom whose address is c/o First American Time Insurance Company, 2000 Berring Drive, Suite 100, Houston, Texas 77057, shall be the Deed of Trust Trustee.

This Subordinate Assignment shall be binding upon Assignor, its successors and assigns, and shall inure to the benefit of Assignees and their respective successors in trust.


IN WITNESS WHEREOF, Assignor, Corporate Trustee and Individual Trustee have caused this Subordinate Assignment to be executed as of the day and year first above written.

ATTEST:

S & A PROPERTIES CORP.,
as Assignor


Marci McLean
Assistant Secretary

By:


Robert Svehlak
President


[SEAL]

WITNESS:

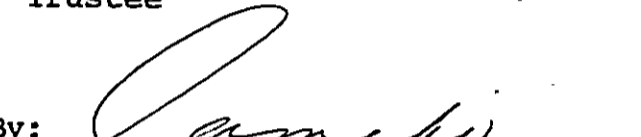

Lawrence J. Steele

ATTEST:

✓ THE CONNECTICUT BANK and TRUST COMPANY,
NATIONAL ASSOCIATION as Corporate
Trustee


Assistant Secretary

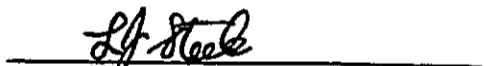
By:



Lese Amato
Vice President

WITNESS:


Lawrence J. Steele

WITNESSES:


Lawrence J. Steele


LESE AMATO as Individual Trustee


Jonathan Warren

NORTH CAROLINA

STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

I, a Notary Public of the County and State aforesaid, certify that Marci McLean personally came before me this day and acknowledged that she is Assistant Secretary of S & A PROPERTIES CORP., a Delaware corporation, Assignor, and that by authority duly given and as the act of the corporation, the foregoing Subordinate Assignment was signed in its name by its President, sealed with its corporate seal and attested by her as its Assistant Secretary.

Witness my hand and notarial stamp and seal this 10th day of March, 1990.


Notary Public

My Commission expires:

February 27, 1991

[Stamp/Seal]

JASON M. LESKO
NOTARY PUBLIC, State of New York
No. 41-4947514
Qualified in Queens County
Signature Filed in New York County
Commission Expires Feb. 27, 1991

BOOK 1688P2417

NORTH CAROLINA

STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

I, a Notary Public of the County and State aforesaid, certify that Sandy Lamar Codey personally came before me this day and acknowledged that she is an Assistant Secretary of THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, Corporate Trustee, and that by authority duly given and as the act of the banking association, the foregoing Subordinate Assignment was signed in its name by its Vice President, sealed with its corporate seal and attested by her as its Assistant Secretary.

Witness my hand and notarial stamp or seal, this 21st day of February, 1990.

Jason M. Lesko
Notary Public

My Commission expires:

February 27, 1991

[Stamp/Seal]

JASON M. LESKO
NOTARY PUBLIC, State of New York
No. 41-4947514
Qualified in Queens County
Signature Filed in New York County
Commission Expires Feb. 27, 1991

BOOK 1688P2418

NORTH CAROLINA

STATE OF NEW YORK)
: SS:
COUNTY OF NEW YORK)

I, a Notary Public of the County and State aforesaid,
certify that LESE AMATO, Individual Trustee, personally appeared
before me this day and acknowledged the execution of the
foregoing Subordinate Assignment.

Witness my hand and notarial stamp and seal this 21st day of
February, 1990.

Jason M. Lesko
Notary Public

My Commission expires:

February 27, 1991

[Stamp/Seal]

JASON M. LESKO
NOTARY PUBLIC, State of New York
No. 41-4947514
Qualified in Queens County
Signature Filed in New York County
Commission Expires Feb. 27, 1991

STATE OF NORTH CAROLINA—Forsyth County

The foregoing (or annexed) certificate 3 of Jason M. Lesko N.P. N.Y. C. NY
(here give name and official title of the officer signing the certificate, passed upon)

PRESENTED FOR

(are) certified to be correct. This the 16th March 1990
REGISTRATION AND RECORDED

MAR 16 11 59 AM '90 Speas, Register of Deeds

L.E. SPEAS By James Mable

Deputy-Assistant

Probate and Filing Fee \$ 30.00 paid FORSYTH COUNTY

BOOK 1688P2419

G

Unit #3442/S

Exhibit "A"

LEGAL DESCRIPTION OF REAL ESTATE
LOCATED IN FORSYTH COUNTY, NORTH CAROLINA

BEGINNING at an iron stake, being the intersection of the East right of way line of Bethesda Road in the South right of way of the Southern Railway; running thence with the Southern Railway right of way, North 53 07' East 52.06 feet to an iron stake; continuing thence North 53 31' East 93.94 feet to an iron stake; running thence South 36 07' 13" East 114.26 feet to an iron stake; running thence North 83 01' East 26.87 feet to an iron stake; running thence South 06 59' East 71.21 feet to an iron stake; running thence South 83 01' West 224.00 feet to an iron stake in the East right of way line of Bethesda Road; running thence with the east right of way line of Bethesda Road, North 06 59' West 125.00 feet to the point and place of beginning, containing 31,800 square feet, more or less, and being in accordance with a survey by John G. Bane, Registered Land Surveyor; being a portion of the property described in Deed Book 970, Page 296, Forsyth County, North Carolina Registry.

ALSO, being described as:

BEGINNING at an iron pipe, being the intersection of the east right of way line of Bethesda Road and the South right of way of the Southern Railway; running thence with the Southern Railway right of way, N 53 -17'-12" E. 51.97' to an iron pipe; continuing thence N. 53 -31'-00" E. 93.94' to an iron pipe; running thence S. 36 -07'-13" E. 144.26' to an iron pipe; running thence N. 83 -01'-00" E. 26.87' to an iron pipe; running thence S. 06 -59'-00" E. 71.02 to an iron pipe; running thence S. 83 -01'-00" W. 224.00' to an iron pipe in the east right of way line of Bethesda Road; running thence with the east right of way line of Bethesda Road N. 06 -59'-05" W. 125.00' to the point and place of beginning, containing 31,763 square feet, BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 970, PAGE 296 FORSYTH COUNTY, NORTH CAROLINA REGISTRY.

UNDER AND SUBJECT TO all agreements, covenants, liens, reservations, exceptions, restrictions and other encumbrances of record.

Block 6057 Lot 3

BOOK 1688P2420

7838 N. Point Blvd.
Winston-Salem, N.C. 27106

Site No. 3443

"Exhibit A"

LEGAL DESCRIPTION OF REAL ESTATE
LOCATED IN FORSYTH COUNTY, NORTH CAROLINA

Legal description according to DSA Group Survey dated May 11, 1989 reads as follows:

BEGINNING at a point in the North right of way margin of North Point Boulevard (formerly Silas Creek Parkway), said point being S 81 11'00" E 135.43 feet, thence S 82 26' 46" E 93.89 feet from the Southeast corner of the tract deeded to Shelton Companies in Deed Book 1229, Page 1291, Forsyth County, North Carolina Registry; thence from point of Beginning and running the following new lines N 00 14' 28" E 158.51 feet to a point, thence S 89 45' 32" E 185.00 feet to a point, thence S 00 14' 28" W 170.00 feet to a point in the North right of way margin of Silas Creek Parkway, thence with the North right of way margin of Silas Creek Parkway along an arc 185.42 feet to the point and place of BEGINNING, said arc having a chord of N 86 12' 14" W 185.36 feet.

Together with those certain easement rights established by the Declaration of Restrictions and Grant of Easements recorded in Book 1269, Page 956, and by Amendment No. 1 to Declaration of Restrictions and Grant of Easements recorded in Book 1377, Page 951, and by Amendment No. 2 to Declaration of Restrictions and Grant of Easements Recorded in Book 1605, Page 67.

Where the words "Silas Creek Parkway" appear in the above legal description, they shall mean "North Point Boulevard".

EX 16882421