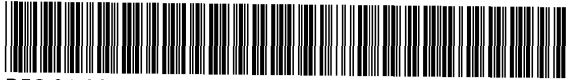




MISC 2014093190



DEC 01 2014 15:47 P 8

Fee amount: 52.00
FB: 68-40328
COMP: MS

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
12/01/2014 15:47:19.00



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DSW #29227 Omaha NE

Loan # [10299]

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

NOTICE: THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT RESULTS IN YOUR LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made as of December 1, 2014, by and between DSW SHOE WAREHOUSE, INC., a Missouri Corporation ("Tenant"), and ALLIANZ LIFE INSURANCE COMPANY OF NORTH AMERICA, a Minnesota corporation, whose address is c/o Allianz Real Estate of America LLC, 60 East 42nd Street, Suite 3710, New York, NY 10165, Attention: Servicing Department ("Lender").

RECITALS

A. In consideration of certain loans and other financial accommodations (the "Loan") made available by Lender to 168th and Dodge, LP, a Nebraska limited partnership ("Landlord"), Landlord has agreed to grant Lender a mortgage lien on and security interest in the real estate legally described in Exhibit A hereto and all improvements located thereon, commonly known as Village Pointe Shopping Center, in the City of Omaha, Nebraska (the "Property") pursuant to a Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage"). Landlord has also agreed to assign to Lender all leases and rents arising from the Property pursuant to an Assignment of Leases and Rents (the "Assignment").

B. Tenant is lessee of certain premises located on the Property (the "Premises") pursuant to a Lease between Tenant and Landlord, dated December 15, 2003, as amended and modified (collectively, the "Lease"), a copy of which was given by Landlord to Lender in connection with the Loan.

C. As part of the consideration for the Loan, Lender has required that the Lease be made subordinate to the lien of the Mortgage and Tenant has agreed to do so subject to the terms and conditions set forth below.

AGREEMENT

Accordingly, the parties hereby agree as follows:

1. Subordination. Except as otherwise provided in paragraph 2 of this Agreement, the Lease and all rights of Tenant in and to the Lease, the Premises and the Property, including without limitation any option to purchase or otherwise acquire title to the Property, are hereby subjected and subordinated, and shall remain in all respects and for all purposes subject and subordinate, to the lien of the Mortgage (as hereafter amended, modified and/or increased), and to the rights and interest of Lender and its successors and assigns, as fully and with the same effect as if the Mortgage had been duly executed, acknowledged and recorded, and the

indebtedness secured by the Mortgage had been fully disbursed prior to the execution of the Lease or possession of the Premises by Tenant, or its predecessors in interest. This Agreement supersedes any inconsistent provision of the Lease.

2. Lender Not to Disturb Tenant. At any time that the Mortgage shall be in effect, Lender agrees that so long as Tenant is not in default (beyond any period given Tenant under the Lease to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Mortgage (unless required to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Lease) and that Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof in accordance with the Lease, shall not be diminished or interfered with by Lender and Tenant's occupancy of the Premises shall not be disturbed by Lender.

3. Tenant to Attorn to Lender. If the Premises shall be transferred to and owned by Lender by reason of foreclosure of the Mortgage or other proceedings brought by it in lieu of or pursuant to a foreclosure, or in any other manner, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof in accordance with any option therefor in the Lease, with the same force and effect as if Lender were originally the landlord under the Lease, and Tenant does hereby attorn to Lender as its landlord, such attornment to be automatically effective immediately upon Lender's obtaining title to the Property without the execution of any further instruments on the part of any of the parties hereto. Tenant agrees to confirm such attornment in writing.

4. Lender Notice and Right to Cure Defaults of Landlord. Tenant will not seek to terminate the Lease by reason of any act or omission of Landlord until Tenant shall have given written notice of such act or omission to Lender and until thirty (30) days have elapsed following the later of (i) the giving of such notice or (ii) the expiration of Landlord's cure period for such default or breach, if any, as provided in the Lease (or such longer period as may reasonably be required, including the time required to foreclose Lender's lien on the Property, so long as Lender is proceeding diligently to remedy the act or omission), during which period Lender shall have right, but not the obligation, to remedy such act or omission.

5. Lender Not Bound By Certain Acts of Landlord. If Lender shall obtain [title to / a leasehold interest in] the Property, Lender shall not be: (i) liable for any act or omission of any prior landlord (including Landlord); nor (ii) bound by any rent or additional rent which Tenant might have paid for more than the then current installment; nor (iii) bound by any amendment or modification of the Lease made after the date hereof without Lender's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed; nor (iv) liable for the return of any security deposit or other deposit unless actually received by Lender; nor (v) bound by any offsets which Tenant may have against Landlord other than for amounts spent by Tenant as provided under the Lease to cure Landlord defaults after notice to Lender as provided in paragraph 4, above, and expiration of time periods for remedy by Lender, so long as such amounts are reasonable and appropriate and are spent on repairs, replacements or maintenance to or of the Property or for items incorporated into the Property; nor (vi) subject to defenses which

Tenant may have against any prior landlord (including Landlord), unless such defenses are of a continuing nature, and Lender was duly notified of same pursuant to paragraph 4 above, nor (vii) bound by any construction or construction reimbursement obligations of the Landlord under the lease unless Lender was notified of such obligations in accordance with paragraph 4 above.

6. Payment of Rent to Lender. Tenant acknowledges that it has notice that the Lease and the rent and all sums due thereunder have been assigned to Lender pursuant to the Assignment as part of the security for the obligations secured by the Mortgage. In the event Lender notifies Tenant of a default under the Loan and demands that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant agrees that it will honor such demand and pay its rent and all other sums due under the Lease to Lender, or Lender's designated agent, until otherwise notified in writing by Lender.

7. No Amendment or Cancellation of Lease. So long as the Mortgage remains undischarged of record, Tenant shall not materially amend, modify, cancel or terminate the Lease, or consent to an amendment, modification, cancellation or termination of the Lease, or agree to subordinate the Lease to any other mortgage, unless such rights are afforded to Tenant under the Lease, without Lender's prior written consent in each instance.

8. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their successors and assigns, including without limitation each and every holder of the Lease or any other person having an interest therein and shall inure to the benefit of Lender, and its successors and assigns. In the event that Lender or any new owner ("New Owner") shall acquire [title to / a leasehold interest in] the Premises or the Property, Lender or such New Owner shall have no obligation, nor incur any liability, beyond Lender's or New Owner's then equity interest, if any, in the Property or the Premises, and Tenant shall look exclusively to such equity interest of Lender or New Owner, if any, for the payment and discharge of any obligations imposed upon Lender or New Owner hereunder or under the Lease or for recovery of any judgment from Lender or New Owner, and in no event shall Lender, New Owner, nor any of their respective officers, directors, shareholders, agents, representatives, servants, employees or partners ever be personally liable for such judgment.

9. Choice of Law. This Agreement is made and executed under and in all respects is to be governed and construed by the laws of the State of Nebraska.

10. Captions and Headings. The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular.

11. Meaning of Lender. For purposes of this Agreement, the term "Lender" shall also be deemed to mean any purchaser of the Property at a foreclosure of the Mortgage, or any transferee of a deed-in-lieu of such a foreclosure.

12. Notices. Any notices which any party hereto may desire or may be required to give to any other party shall be in writing; and the mailing thereof by certified mail, or the

delivery thereof by messenger service, to the addresses as set forth above, or to such other places as the parties hereto may by notice in writing designate, shall constitute service of notice hereunder.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

TENANT: DSW SHOE WAREHOUSE, INC., a
Missouri corporation

By: [Signature]
Name: William L. Jordan
Title: EVP-General Counsel

STATE OF Ohio)
) ss.
COUNTY OF Franklin)

On September 29, 2014, before me, Michelle C. Krall, Notary Public, personally appeared William L. Jordan, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

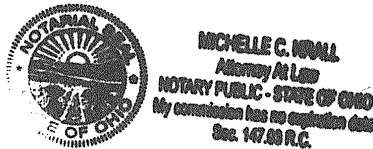
I certify under PENALTY OF PERJURY under the laws of the State of Ohio that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]

(Seal)

Notary Public



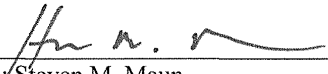
The undersigned accepts and agrees to the provisions of Section 6 hereof:

LANDLORD: 168th and Dodge, LP, a Nebraska limited partnership

By: RED Development of West Dodge, L.L.C., a Missouri limited liability company, its sole General Partner

By: RED Village Pointe, LLC, a Missouri limited liability company, its Manager

By: RED Consolidated Holdings, LLC, a Delaware limited liability company, its Managing Member

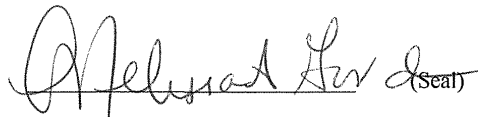
By: 
Name: Steven M. Maun
Title: President

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On November 18, 2014, before me, Melissa A. Goodson, Notary Public, personally appeared Steven M. Maun, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Kansas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 (Seal)
Notary Public



**EXHIBIT A
TO
SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

The Property described in the referenced instrument is located in Douglas County, Omaha, and is legally described as follows:

68-40328

Lots 2, 4, 5, 8 and Outlots A and B, Village Pointe, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, except that part of Lot 2, Village Pointe as described in Plat and Dedication for Street Purposes filed September 12, 2008 at Instrument No. 2008090053, records of Douglas County, Nebraska.

AND

68-40329

Lots 1, 2 and 3, Village Pointe Replat One, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

AND

68-40344

Lot 3, Village Pointe Replat Two, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.