

STATE OF ALABAMA

SHELBY COUNTY

NOTE TO PROBATE JUDGE: This Agreement is being recorded as additional security for the Indebtedness described in a Mortgage and Security Agreement of even date herewith between the Assignor and Assignee, which Mortgage and Security Agreement is being filed for record concurrently with the recording of this Agreement.

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES is made as of March 1, 1994, by FPI BIRMINGHAM, LTD., an Alabama limited partnership ("Assignor"), having an address c/o Fogelman Properties, Inc., 5400 Poplar Avenue, Memphis, Tennessee 38119, to the ALABAMA HOUSING FINANCE AUTHORITY, a public body corporate and politic created and existing under the laws of the State of Alabama ("Assignee"), having an address at 2000 Interstate Parkway, Suite 408, Montgomery, Alabama 36109, Attn: Robert Strickland.

W I T N E S S E T H: That,

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby transfers, assigns and sets over to Assignee, all of Assignor's right, title and interest in and to (a) all leases, subleases, licenses, rental contracts and other agreements relating to the occupancy now existing or hereafter entered into and affecting that certain real property located in Shelby County, Alabama, as more fully described in Exhibit "A", attached hereto and made a part hereof (the "Property"), together with all guarantees, modifications, extensions and renewals thereof which now exist or may hereafter be made (collectively, the "Leases"), and (b) all rents, issues, profits, income and proceeds due or to become due from tenants of the Property, including but not limited to, rentals under all present and future Leases, together with all deposits of tenants thereunder, including, without limitation, security deposits, now or hereafter held by Assignor in connection with the Property (the "Rents").

In connection with and as part of the foregoing assignment, Assignor hereby makes the following grants, covenants, agreements, representations and warranties: Inst. # 1994-09694

03/24/1994-09694
03:07 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
008 MCD 26.00

1. Assignee shall have the right, power and authority to take any and all actions which Assignee deems necessary or appropriate in connection with (a) entering upon, taking possession of and operating the Property; (b) leasing all or any part of the Property; and (c) collecting all or any of the Rents and enforcing the rights of the lessor under all or any of the Leases, including, without limitation, bringing, prosecuting, defending or settling legal proceedings against tenants. Notwithstanding anything herein to the contrary, Assignee shall not be obligated to perform or discharge, and Assignee does not undertake to perform or discharge, any obligation, duty or liability with respect to the Leases or the Rents under or by reason of this Assignment. This Assignment shall not operate to place responsibility for the control, care, maintenance or repair of the Property upon Assignee, or to make Assignee responsible or liable for any waste committed on the Property by any tenant or other person, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property.

2. Assignee shall have the right, power and authority to use and apply any Rents received hereunder (a) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this Assignment or the rights of Assignee hereunder, and collecting any Rents; and (b) for the operation and maintenance of the Property and the payment of all costs and expenses in connection therewith including, without limitation, the payment of (i) rentals and other charges payable by Assignor under any ground lease affecting the Property, (ii) interest, principal or other amounts with respect to any and all loans secured by mortgages on the Property, including, without limitation, that certain Mortgage and Security Agreement dated as of even date herewith from Assignor to Assignee relating to the Property (the "Mortgage"), (iii) taxes, assessments, water charges and sewer rents and other governmental charges levied, assessed or imposed against the Property or any part thereof, (iv) insurance premiums, (v) costs and expenses with respect to any litigation affecting the Property, the Leases or the Rents, and (vi) wages and salaries of employees, commissions of agents and attorneys' fees. After the payment of all such costs and expenses and after Assignee shall have set up such reserves as it, in its sole discretion, shall deem necessary for the proper management of the Property, Assignee shall apply all remaining Rents collected and received by it to the reduction of the indebtedness secured by the Mortgage. The term "Property" used herein shall have the same definition as the term "Secured Property" as defined in the Mortgage. Exercise or nonexercise by Assignee of the rights granted in this Assignment, or collection and application of Rents, by Assignee or its agent shall not be a waiver of any default by Assignor under this Assignment, the Mortgage, any note or loan agreement referred to therein or any other document or agreement relating thereto (the "Loan Documents"). Subject only to the provisions of Paragraph 6 hereof, no action or failure to

act by Assignee with respect to any of the obligations of Assignor evidenced by the Loan Documents, to any security or guarantee given for the payment or performance thereof, or to any other document or instrument evidencing or relating to such obligations, shall in any manner affect, impair or prejudice any of Assignee's rights and privileges under this Assignment or discharge, release or modify any of Assignor's duties or obligations hereunder. This Assignment is intended by Assignor and Assignee to create, and shall be construed to create, an absolute assignment to Assignee, subject only to the terms and provisions hereof, and not as an assignment as security for the performance of the obligations evidenced by the Loan Documents, or any other indebtedness of Assignor.

3. Assignor shall have a revocable license to collect and receive the Rents and to retain, use and enjoy such Rents. Such license may be revoked by Assignee, without notice to Assignor, upon the occurrence of an Event of Default, as defined in the Mortgage or any of the other Loan Documents, or upon default by Assignor of its agreements and obligations under this Assignment. Unless and until such license is so revoked, Assignor agrees to deposit the proceeds of Rents as specified in that certain Cash Management Agreement of even date herewith relating to the Property, and to cause the proceeds of Rents to be applied to the payment of debt service on the Property and of taxes, assessments, water rates, sewer rents, and to operation and maintenance charges relating to the Property which are due and payable at the time of collection of such proceeds of Rents before using such proceeds for any other purpose. Assignor shall (a) observe and perform faithfully every obligation which Assignor is required to perform under the Leases; (b) enforce, or secure the performance of, at its sole cost and expense, every obligation to be performed by the landlord under the Leases; (c) not collect any Rents for more than sixty (60) days in advance of the time when the same shall become due, or anticipate any payments under any of the Leases, except for bona fide security deposits not in excess of an amount equal to two (2) month's rent; (d) except with Assignee's prior written consent, not further assign any of the Leases or the Rents; (e) except in accordance with sound business practices, not waive, condone or in any manner discharge any tenants from their obligations under the Leases; (f) except in accordance with sound business practices not cancel, abridge or accept surrender or termination of any of the Leases; (g) except with Assignee's prior written consent, not modify or amend, by sufferance or otherwise, any of the Leases or any of the terms, provisions or covenants thereof, other than in the ordinary course of business and in a manner which will not decrease the value of the Property; (h) subject to any right to contest which may be specifically provided for in the Loan Documents, comply with all laws, rules, orders, ordinances and requirements of all governmental authorities relating to the Property; (i) upon request by Assignee, deliver copies of all Leases to Assignee; and

(j) appear in and defend against, at Assignor's sole cost and expense, any action or proceeding arising under, or in any manner connected with the Leases, the Rents or the obligations, duties or liabilities of the lessor, tenants or guarantors thereunder.

4. This Assignment shall continue in full force and effect until (a) all sums due and payable under the Loan Documents shall have been fully paid and satisfied, together with any and all other sums which may become due and owing under this Assignment, and (b) all other obligations of Assignor under the Loan Documents have been satisfied. At such time this Assignment and the authority and powers herein granted by Assignor to Assignee shall cease and terminate and Assignor shall assume payment of all unmatured or unpaid charges, expenses or obligations incurred or undertaken by Assignee, if any, in connection with the management of the Property.

5. Assignor hereby irrevocably constitutes and appoints Assignee its true and lawful attorney in fact, to undertake and execute any or all of the rights or powers described herein with the same force and effect as if undertaken or executed by Assignor, and Assignor hereby ratifies and confirms any and all things done or omitted to be done by Assignee, its agents, servants, employees or attorneys in, to or about the Property.

6. Assignee shall not in any way be liable to Assignor for any act done or anything omitted to be done to the Property, the Leases or the Rents by or on behalf of Assignee in good faith in connection with this Assignment except for the consequences of its own gross negligence or willful misconduct. Assignee shall not be liable for any act or omission of its agents, servants, employees or attorneys, provided that reasonable care is used by Assignee in the selection of such agents, servants, employees and attorneys. Assignee shall be accountable to Assignor only for monies actually received by Assignee pursuant to this Assignment.

7. Assignor acknowledges and agrees that, pursuant to that certain Trust Indenture (the "Indenture"), dated as of even date herewith, by and between Assignee and the Trustee (as hereinafter defined), Assignee has assigned and pledged to First Alabama Bank (the "Trustee"), as trustee for the Bonds (as defined in the Indenture), and for the benefit of the registered owner of the Bonds, all of Assignee's rights under this Assignment, and other documents executed and delivered by Assignor in connection therewith, except for certain rights relating to indemnification, reimbursement of expenses and receipt of notices and other communications and certain other payments. All of the rights, privileges and immunities granted to Trustee under the Indenture shall be deemed incorporated herein by this reference and made a part of this Assignment.

8. Assignor shall indemnify and hold Assignee and Trustee, and their respective directors, officers, commissioners, employees, and agents (collectively, the "Indemnified Parties", and individually, an "Indemnified Party"), harmless from and against any and all liability, loss, damage, cost or expense, including attorneys' fees, which it may incur under any of the Leases, or with respect to this Assignment or any action or failure to act of any Indemnified Party hereunder, and from and against any and all claims and demands whatsoever which may be asserted against any Indemnified Party by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants and conditions any of the Leases or with respect to any Rents. In the event that any Indemnified Party incurs any such liability, loss, damage, cost or expense, the amount thereof, together with interest therein from the date such amount was suffered or incurred by such Indemnified Party until the same is paid by Assignor to such Indemnified Party, at the Post-Default Rate, as defined in the Loan Agreement, shall be payable by Assignor to such Indemnified Party immediately upon demand, or at the option of such Indemnified Party, such Indemnified Party may reimburse itself therefor out of any Rents collected by Assignee or Trustee.

9. This Assignment is subject to the provisions of the Loan Agreement limiting the personal liability of the partners of Assignor and providing that no deficiency or other money judgment shall be taken or entered against such partners (subject to certain exceptions therein described), all as set forth in the Loan Agreement, which provisions are made a part hereof as though set forth at length herein.

10. Upon request of Assignee, Assignor shall execute and deliver to Assignee, such further instruments as Assignee may deem necessary to effect this Assignment and the covenants of Assignor contained herein. Assignor shall cause such further instruments to be recorded in such manner and in such places as may be required by Assignee.

11. All of the representations, warranties, covenants, agreements and provisions in this Assignment by or for the benefit of Assignee shall bind and inure to the benefit of its successors and assigns.

12. This Assignment may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

13. This Assignment shall be governed by, construed and enforced in accordance with the laws of the State of Alabama.

[EXECUTION ON NEXT PAGE]

IN WITNESS WHEREOF, Assignor has caused this Assignment to be duly executed and delivered under seal on the date first above written.

ASSIGNOR:

FPI BIRMINGHAM, LTD., an
Alabama limited partnership

BY: *Avron B. Fogelman* (SEAL)
Avron B. Fogelman,
General Partner

BY: Fogelman Properties, Inc., a
Tennessee corporation, General
Partner

By: *Avron B. Fogelman*
Avron B. Fogelman
President

[CORPORATE SEAL]

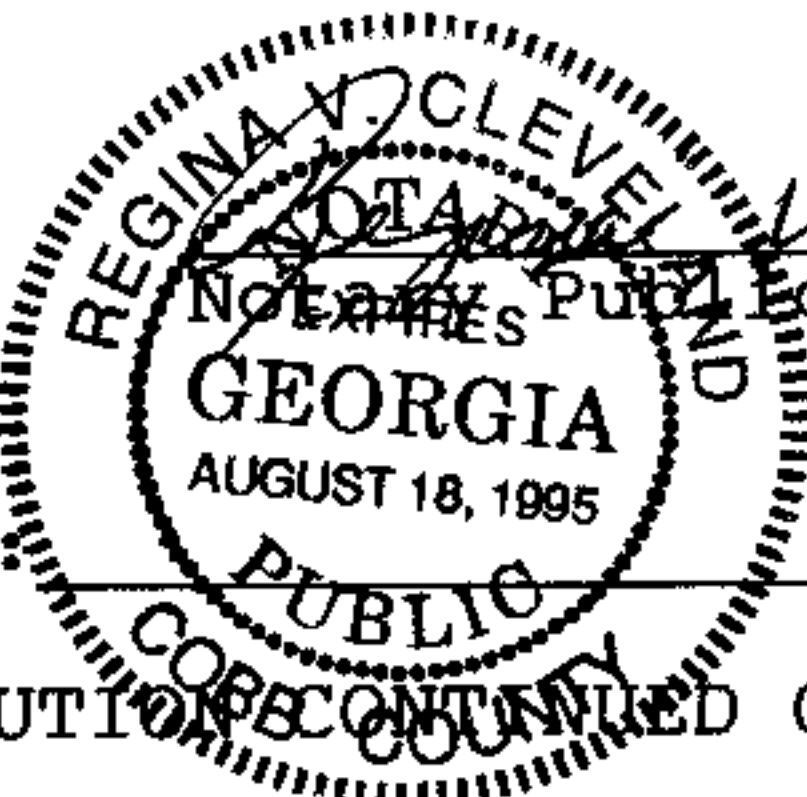
STATE OF GEORGIA
COUNTY OF FULTON

I, the undersigned, Notary Public in and for said county, in said state, hereby certify that AVRON B. FOGELMAN whose name as general partner of FPI Birmingham, Ltd., an Alabama limited partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he as such general partner, and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this 22nd day of March, 1994.

AFFIX SEAL

My Commission Expires:

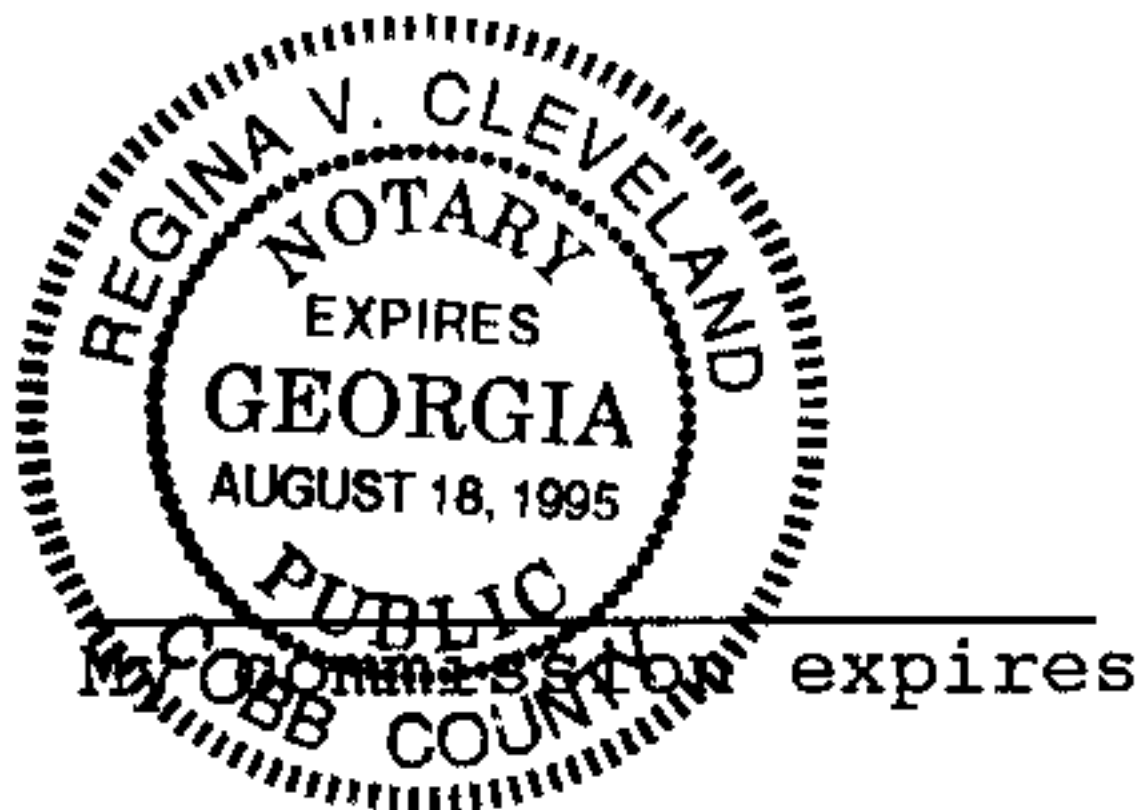


[EXECUTION CONTINUED ON NEXT PAGE]

STATE OF GEORGIA
COUNTY OF FULTON

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that AVRON B. FOGELMAN, whose name as President of Fogelman Properties, Inc., a Tennessee corporation, as general partner of FPI Birmingham, Ltd., a limited partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as general partner of the said limited partnership.

Given under my hand and official seal this 22nd day of March, 1994.



Regina V. Cleveland
Notary Public

[SEAL]

This Instrument Prepared By:

Susan L. Bassett, Esq.
King & Spalding
191 Peachtree Street
Atlanta, Georgia 30303

EXHIBIT A

Hunter's Pointe Legal

Said land being the same land delineated on the survey prepared by Barton F. Carr, Registered Professional Land Surveyor, dated as last revised March 11, 1994, Project No. 93534-3, as follows:

A parcel of land situated in the Northeast quarter of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Commencing at the Southeast corner of said quarter section run in a Westerly direction along the South line of said quarter section for a distance of 311.91 feet to a point on the West right of way line of a public county road known as Cahaba Beach Road, said point being the Point of Beginning of the parcel herein described; from the point of beginning thus obtained run Westerly along said South line of said quarter section for a distance of 1009.39 feet to the Southwest corner of the Southeast quarter of the Northwest quarter of said section; thence turn an angle to the right of 87 degrees 52 minutes 43 seconds and run in a Northerly direction along the West line of the East half of the Northeast quarter of said Section 36 for a distance of 2687.32 feet to the Northwest corner of said East half of the Northeast quarter section; thence turn an angle to the right of 92 degrees 09 minutes 31 seconds and run in an Easterly direction along the North line of said section for a distance of 1314.78 feet to the Northeast corner of said section; thence turn an angle to the right of 87 degrees 42 minutes 06 seconds and run in a Southerly direction along the East line of said section for a distance of 2128.72 feet to a point on the West right of way line of said Cahaba Beach Road, said point lying in a curve to the left, said curve having a radius of 756.37 feet, a central angle of 15 degrees 33 minutes 20 seconds and a chord of 204.72 feet which forms an interior angle of 145 degrees 24 minutes 26 seconds with the East line of said section; thence run in a Southwesterly direction along the arc of said curve in said right of way for a distance of 205.35 feet to the end of said curve; thence run Southwesterly along said right of way and tangent to the last curve for a distance of 327.30 feet to the beginning of a curve to the right in said right of way; said curve having a central angle of 5 degrees 01 minutes 58 seconds and a radius of 1111.0 feet; thence run in a Southwesterly direction along the arc of said curve for a distance of 97.58 feet to the Point of Beginning. Said parcel contains 79.118 Acres (3,446,380.08 square feet), more or less.

Inst # 1994-09694