

This document prepared by:
Eric Clarke
Publix Alabama, LLC
P.O. Box 467
Gresham, TN 33802 040/

20040405000171000 Pg 1/6 26.00
Shelby Cnty Judge of Probate, AL
04/05/2004 08:34:00 FILED/CERTIFIED

After recording, Return to:
Arnall Golden Gregory, LLP
1201 W. Peachtree St., Suite 2800
Atlanta, GA 30309
Attn: George A. Mattingly, Esq.

SUBORDINATION,
NON-DISTURBANCE AND
ATTORNMMENT AGREEMENT

#0882 - The Village at Lee Branch, Birmingham, Alabama

THIS AGREEMENT made this 22nd day of March, 2004, among SouthTrust Bank, (hereinafter referred to as "Lender"), Publix Alabama, LLC, an Alabama limited liability company, (hereinafter referred to as "Tenant"), and AIG Baker Brookstone, LLC, (hereinafter referred to as "Landlord").

W I T N E S S E T H:

WHEREAS, Landlord and Tenant have entered into a certain lease (hereinafter referred to as the "Lease") dated 05/21/2002, relating to premises (hereinafter referred to as the "Premises") located or to be located in a shopping center constructed or to be constructed upon the real property described in Exhibit "A" attached hereto and by this reference made a part hereof: and which was modified by Amendments dated 06/03/2002 and 08/21/2002.

WHEREAS, Lender has made or has committed to make a loan to Landlord secured or to be secured by a mortgage or security deed (hereinafter referred to as the "Mortgage") and an assignment of leases and rents from Landlord to Lender covering the Premises; and

WHEREAS, Tenant has agreed that the Lease shall be subject and subordinate to the Mortgage held by Lender, provided Tenant is assured of continued occupancy of the Premises under the terms of the Lease;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and notwithstanding anything in the Lease to the contrary, it is hereby agreed as follows:

1. Lender, Tenant and Landlord do hereby covenant and agree that the Lease with all rights, options, liens and charges created thereby is and shall continue to be subject and subordinate in all respects to the Mortgage and to any advance-ments made thereunder and to any renewals, modifications, consolidations, replacements and extensions thereof.

2. Lender does hereby agree with Tenant that, so long as Tenant complies with and performs its obligations under the Lease: (i) Lender will take no action which will interfere with or disturb Tenant's possession or use of the Premises or other rights under the Lease; (ii) in the event of any foreclosure sale pursuant to the Mortgage, conveyance in lieu of foreclosure or otherwise, said sale or conveyance shall be made subject to the Lease and this Agreement; and (iii) in the event Lender or any other person or entity becomes the owner of the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, the Premises shall be subject to the Lease and Lender or any such other new owner shall recognize Tenant as the tenant of the Premises for the remainder of the term of the Lease in accordance with the provisions thereof.

3. Tenant does hereby agree with Lender that, in the event Lender, or any other person or entity becomes the owner of the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, then Tenant agrees, from and after such event, to attorn to and recognize Lender or any other person or entity as the landlord under the Lease for the remainder of the term thereof, and Tenant shall perform and observe its obligations thereunder, subject only to the terms and conditions of the Lease. Tenant further covenants and agrees to attorn to: (i) Lender when in possession of the premises; (ii) a receiver appointed in an action to foreclose the Mortgage; or (iii) any other party acquiring title to the Premises by foreclosure or conveyance in lieu of foreclosure. This provision shall operate automatically without further acknowledgment or instrument of attornment.

4. So long as the Mortgage remains outstanding and unsatisfied, Tenant will mail or deliver to Lender, at the address and in the manner hereinbelow provided, a copy of all notices required to be given to the Landlord by Tenant, including, without limitation, notices pursuant to which Tenant proposes to abate or reduce the rental payable under the Lease or to terminate or cancel the Lease, under and pursuant to the terms and provisions of the Lease and that no such notice to Landlord shall be effective unless a copy of such notice is also mailed to Lender. At any time before the rights of the Landlord shall have been forfeited or adversely affected because of any default of the Landlord, or within the time permitted the Landlord for curing any default under the Lease as therein provided, Lender may, but shall have no obligation to, pay any taxes and assessments, make any repairs and improvements, make any deposits or do any other act or thing required of the Landlord by the terms of the Lease; and all payments so made and all things so done and performed by Lender shall be as effective to prevent the rights of the Landlord from being forfeited or adversely affected because of any default under the Lease as the same would have been if done and performed by the Landlord.

5. Tenant acknowledges that Landlord will execute and deliver to Lender an assignment of the Lease as security for said loan, and Tenant hereby expressly consents to such assignment.

6. Any provision of this Agreement to the contrary notwithstanding, the Lender shall have no obligation, or incur any liability, with respect to the erection and completion of the building in which the premises demised by the Lease are or are to be located or for the completion of such premises or any improvements for Tenant's use and occupancy.

7. Whenever notice is required or permitted under this Agreement, it shall be in writing and shall be deemed to be properly given upon receipt or refusal if sent by U. S. Postal Service, postage prepaid, by certified or registered mail, return receipt requested, or if personally delivered by hand or sent by nationally recognized overnight courier service. For purposes of this Agreement, delivery of a notice to an address from which the recipient has moved but failed to notify the other parties of modification of such address as hereinafter provided shall be deemed to constitute refusal of such notice by the intended recipient. All notices required or permitted under this Agreement shall be delivered to the party entitled thereto at the following addresses:

Lender: SouthTrust Bank
One Georgia Center - 22nd Floor
600 West Peachtree Street
Atlanta, GA 30308
Attn: Randy Rinderknecht, Vice President

With a copy to: Arnall Golden Gregory, LLP
2800 One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309
Attn: George A. Mattingly, Esq.

Tenant: Publix Alabama, LLC
3300 Airport Road
Lakeland, FL 33811-3002
Attn: John Frazier
President

With a copy to: Hahn, McClurg, Watson, Griffith
& Bush, P.A.
C. V. McClurg Building
101 South Florida Avenue
Lakeland, Florida 33801
Attn: John R. Griffith, Esq.

With a copy to: McClure & McClure
1708 Peachtree Street, N. W.
Suite 450
Atlanta, GA 30309
Attn: Jay McClure, Esq.

Landlord: AIG Baker Brookstone, LLC
1701 Lee Branch Lane
Birmingham, AL 34242
Attn: Alex D. Baker

The foregoing addresses may be modified by delivery of written notice of such modification to the parties entitled thereto, which written notice shall be delivered and deemed effective as set forth herein.

8. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-title and assigns. When used herein, the term "landlord" refers to Landlord and to any successor to the interest of Landlord under the Lease.

9. Any provision of this Agreement to the contrary notwithstanding:

- (a) except as provided in subparagraph (b) below, neither Lender nor any other party acquiring title to the Premises by foreclosure or conveyance in lieu of foreclosure or otherwise shall be liable to Tenant for any act or omission of any prior landlord (including the Landlord);
- (b) neither Lender nor any other party acquiring title to the Premises by foreclosure or conveyance in lieu of foreclosure or otherwise shall be subject to any offsets or defenses which the Tenant might have against any prior landlord (including the Landlord) of which Lender had not been notified pursuant to Paragraph 4 hereof;
- (c) neither Lender nor any other party acquiring title to the Premises by foreclosure or conveyance in lieu of foreclosure or otherwise shall be bound by any rent or additional rent which the Tenant might have paid to any prior landlord (including the Landlord) more than thirty (30) days prior to the due date of such payment; and
- (d) Lender shall not be bound by any amendment or modification of the Lease (except those amendments or modifications entered into prior to the date of this Agreement) made without its consent, which modifies any economic term of the Lease or affects in any way the length of the term of the Lease.

10. Any provision of the Mortgage to the contrary notwithstanding, with regard to the property damage insurance required pursuant to the terms and provisions of the Lease, or with regard to condemnation proceeds paid with respect to the Premises, Landlord and Lender agree that all insurance proceeds or condemnation proceeds paid or payable with respect to the Premises and received by Lender shall be applied to and paid for reconstruction or repair of improvements, if either Landlord or Tenant elects or is obligated to restore or repair such improvements, as set forth in and subject to the terms and conditions of the Lease.

11. This Agreement shall be governed by and constructed in accordance with the laws of the State of Alabama.

12. Neither the Mortgage nor any other security instrument executed in conjunction therewith shall cover or be construed as subjecting in any manner to the lien thereof any trade fixtures, signs, or other personal property at any time furnished or installed by or for Tenant or its subtenants or licensees on the premises regardless of the manner or mode of attachment thereof.

13. Nothing contained in this Agreement shall be deemed to modify or amend the terms and provisions of the Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above written.

Shanta Burt
Witness

LENDER:

SouthTrust Bank
an Alabama Corp

By: Randy K. Rindfleisch
Name: Randy K. Rindfleisch
Title: Group Vice President

STATE OF Georgia
COUNTY OF DeKalb

The foregoing instrument was acknowledged before me this 2nd day of MARCH, 2004, by Randy K. Rindfleisch, Group Vice President of SouthTrust Bank, a Alabama corporation, on behalf of said corporation, who is personally known to me.



Sandra L. Corrigan
Notary Public State of ga
Sandra L. Corrigan N/A
Printed Name Commission #
November 25, 2005
Commission Expiration Date

[SIGNATURES CONTAINED ON NEXT PAGE]

TENANT


Publix Alabama, LLC
an Alabama limited liability company

Vicki Brekke
Witness **VICKI BREKKE**

By: [Signature]
John Frazier, its President

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 17th day of March 2004, by John Frazier, President of PUBLIX ALABAMA, LLC, an Alabama limited liability company, on behalf of said company, who is personally known to me.

[Signature]
Notary Public Lisa Marie Clarke
 MY COMMISSION # 00000383 EXPIRES
December 26, 2004
BONDED THRU TROY FAIN INSURANCE, INC.
Notary Stamp

LANDLORD:

AIG BAKER BROOKSTONE, L.L.C.,
a Delaware limited liability company
By: AIG Baker Shopping Center Properties, L.L.C.,
a Delaware limited liability company
Its sole member
By: [Signature]
W. Ernest Moss
Executive Vice President

[Signature]
Witness

STATE OF Alabama
COUNTY OF Shelby

The foregoing instrument was acknowledged before me this 17th day of March, 2004, by W. ERNEST MOSS, EXECUTIVE VICE PRESIDENT of AIG Baker Shopping Center Properties, L.L.C. a Delaware limited liability company LLC sole member of AIG Baker Brookstone, L.L.C. a Delaware limited liability company LLC corporation, on behalf of said corporation, who is personally known to me.

Cristine K. Byrd
Notary Public State of Alabama
Cristine K. Byrd
Printed Name Commission #
7-2-07
Commission Expiration Date

SITE: U.S. 280, SHELBY COUNTY,
ALABAMA
SHOPPING
CENTER: THE VILLAGE AT LEE BRANCH
STOREROOM: 54,340 Square Feet

20040405000171000 Pg 6/6 26.00
Shelby Cnty Judge of Probate, AL
04/05/2004 08:34:00 FILED/CERTIFIED

EXHIBIT "A"

Shopping Center Tract Legal Description

A parcel of land lying in the Southeast quarter of the Northwest quarter and the Southwest quarter of the Northeast quarter and the Northeast quarter of the Southwest quarter all in Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, said parcel being bounded on the South by the proposed Asbury Road, the West by the West line of the Southeast quarter of the Northwest quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama and the East partially by U.S. Highway 280, being more particularly described as follows:

COMMENCE at a found 2" capped pipe, said pipe purported to be the Southwest corner of the Southeast quarter of the Northwest quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama; thence along the West line of said quarter-quarter section N00°30'04"W for 595.18 feet to a point lying on the Northerly right of way margin of proposed Asbury Road, said point also known as the POINT OF BEGINNING of herein described parcel; thence continuing along the West line of said quarter-quarter section N00°30'04"W for 391.97 feet to a found rebar; thence N88°41'32"E for 1335.96 feet to a found 2 inch open top iron; thence S00°25'08"E for 520.11 feet to a point; thence N88°49'06"E for 165.30 feet to a point lying on the Westerly right of way margin of U.S. Highway 280; thence along said Westerly right of way margin S03°59'20"W for 32.93 feet to a point which lies at the intersection of said Westerly right of way margin of U.S. Highway 280 and the Northerly right of way margin of proposed Asbury Road; thence leaving said Westerly right of way margin of U.S. Highway 280 and proceeding along the Northerly right of way margin of proposed Asbury Road S82°20'46"W for 139.77 feet to a point; thence continuing along said Northerly right of way margin of proposed Asbury Road S76°26'44"W for 126.46 feet to a point; thence continuing along said Northerly right of way margin of proposed Asbury Road S82°20'46"W for 19.86 feet to a point, said point lying at the beginning of a curve to the left, said curve having a radius of 362.50 feet, a central angle of 48°47'28" and a chord which bears S57°57'02"W for 299.45 feet; thence proceed Southwesterly along the arc of said Northerly right of way margin of proposed Asbury Road for 308.69 feet to a point; thence continuing along the Northerly right of way margin of proposed Asbury Road S33°33'18"W for 110.93 feet to a point, said point lying at the beginning of a curve to the right, said curve having a radius of 462.50 feet, a central angle of 62°37'09" and a chord which bears S64°51'52"W for 480.69 feet; thence proceed Southwesterly along the arc of said Northerly right of way margin of proposed Asbury Road for 505.47 feet to a point, said point being the beginning of a non-tangent curve to the right, said curve having a radius of 469.00 feet, a central angle of 14°57'09" and a chord which bears N82°12'48"W for 122.05 feet; thence proceed Westerly along the arc of said Northerly right of way margin of proposed Asbury Road for 122.40 feet to a point, said point being the beginning of a non-tangent curve to the right, said curve having a radius of 475.00 feet, a central angle of 58°50'10" and a chord which bears N39°31'31"W for 466.62 feet; thence proceed Northwesterly along the arc of said Northerly right of way margin of proposed Asbury Road for 487.77 feet to a point; thence continuing along said Northerly right of way margin of proposed Asbury Road N10°06'25"W for 194.85 feet to a point, said point being the beginning of a curve to the left, said curve having a radius of 600.00 feet, a central angle of 06°24'18" and a chord which bears N13°18'35"W for 67.04 feet; thence proceed Northwesterly along the arc of said Northerly right of way margin of proposed Asbury Road for 67.07 feet to the POINT OF BEGINNING.

Said parcel containing 1136804.9 square feet or 26.10 acres more or less.