

1295 94  
1295 No. 94

WHEN RECORDED, RETURN TO:  
Gregory S. Bell  
376 E. 400 So.  
Suite 212  
Salt Lake City, Utah 84111

Utah Title  
ASSIGNMENT OF LESSOR'S INTEREST IN LEASE

950 17

By This Assignment dated March 30, 1979

772172  
772172

*Handwritten signature*

St. Benedict Development Company, a joint venture hereinafter referred to as "Owner", for the consideration of One Dollar (\$1.00) with intent to be legally bound hereby, and as an inducement for the making of the loan evidenced and secured as hereinafter described, hereby assigns unto New York Life Insurance Company

a corporation organized under the laws of the State of New York and having its principal place of business at 51 Madison Avenue, New York, New York 10010 hereinafter referred to as "Mortgagee" all the right, title, and interest of Owner in, under, or by virtue of the following described lease or leases, and all extensions, renewals, modifications or replacements thereof and any and all guaranties of the lessee's obligations under any provisions thereof and under any and all extensions and renewals thereof (any such lease or leases being hereinafter referred to collectively as the "Lease"), to wit:

Name of Lessee	Date of Lease	Date of Modification, if any
Richard L. Alder	April 28, 1978	
Ogden Limited Care Dialysis Center	May 1, 1978	
Thomas J. Bergstrom	June 7, 1978	Platted <input type="checkbox"/> Indexed <input type="checkbox"/>
Associates of Pathology, Inc.	May 5, 1978	
J. Richard Rees	July 25, 1978	Abstracted <input type="checkbox"/>
Louis R. Snider and Fred E. Clayson	Undated	
Utaka Harada	Undated	
Knighton Optical	Undated	
Sandra Whitfield	Undated	
Dr. John D. Newton, M.D. Inc.	November 15, 1978	
St. Benedict's Hospital	October 4, 1978	
Adalland Corporation	Undated	
Lars C. Larsen and J. J. Jack	July 17, 1978	

8200, 6200, 850-70

TO HAVE AND TO HOLD said Owner's right, title, and interest unto Mortgagee, its successors and assigns, as security for the payment of the principal and interest provided to be paid in or by Owner's bond, note, or obligation (herein called "Obligation") dated March 30, 1979 and for the performance of the agreements of Owner contained in the mortgage, deed of trust, or other security instrument (herein called "Mortgage") made by Owner to, or to a trustee for, Mortgagee dated March 30, 1979, and recorded or to be recorded at or prior to the recording of this assignment, covering the following described real estate:

See attached Exhibit "A" incorporated herein by this reference.

reserving, however, a license to collect, except as hereinafter provided, the rents, income, and profits accruing by virtue of said Lease as they respectively become due in advance, and to enforce the agreements of said Lease, so long as there is no default by Owner in any of the terms, covenants, or provisions of said Obligation or of said Mortgage or of this assignment.

Owner covenants as follows:

1. Notwithstanding said license, Owner agrees that Mortgagee, and not Owner, shall be and be deemed to be the creditor of each lessee in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution or receivership proceedings affecting such lessee, (without obligation on the part of Mortgagee, however, to file or make timely filings of claims in such proceedings or otherwise to pursue creditor's rights therein) with an option to Mortgagee to apply any money received by Mortgagee as such creditor in reduction of the aforesaid principal or interest or any other indebtedness secured or to be paid by said Mortgagee.

2. Owner agrees that in the event of default in the performance of any of the terms, covenants, and conditions of said Obligation or of said Mortgage or of this assignment and until such default shall have been fully cured, the license reserved herein by Owner shall cease and determine, and Mortgagee is hereby authorized at its option to enter and take possession of the leased premises, or any part thereof, and to perform all acts necessary for the operation and maintenance of said premises in the same manner, and to the same extent that Owner might reasonably so act. In furtherance thereof and not by way of limitation, Mortgagee is empowered but shall be under no obligation, to collect the rents, income, and profits under said Lease, to enforce payment thereof and the performance of any and all other terms and provisions of said Lease, to exercise all the rights and privileges of Owner thereunder including the right to fix or modify rents, to demand and sue for possession of the premises covered by said Lease, to relet the premises or any part thereof and to collect the rents, income, and profits under such new lease. Mortgagee shall from time to time apply the net amount of income after payment of all proper costs and charges, including loss or damage referred to hereinafter in paragraph 6 and including reasonable attorneys' fees, to the sums then due to said Mortgagee under said Obligation and Mortgage. The manner of the application of such net income, the reasonableness of the costs and charges to which such net income is applied and the item or items which shall be credited thereby shall be within the sole and uncontrolled discretion of said Mortgagee. Such entry and taking possession of the leased premises, or any part thereof, may be made by actual entry and possession, or by written notice served personally upon or sent by registered or certified mail to the last owner of the mortgaged premises appearing on the records of Mortgagee as Mortgagee may elect and no further authorization shall be required. Mortgagee shall only be accountable for money actually received by it pursuant to this assignment.

3. Upon payment to Mortgagee of the full amount of the indebtedness secured by the Mortgage as evidenced by a recorded satisfaction or release of the Mortgage, this assignment shall be void and of no effect.

4. Owner irrevocably consents that the lessee under said Lease, upon demand and notice from Mortgagee of Owner's default under said Obligation, under said Mortgage, or under this assignment shall pay said rents, income, and profits under said Lease to said Mortgagee without liability of said lessee for the determination of the actual existence of any default claimed by said Mortgagee. Owner hereby irrevocably authorizes and directs lessee, upon receipt of any notice of Mortgagee stating that a default exists and that payments are due under or in the performance of any of the terms, covenants, or conditions of said Obligation or of said Mortgage or of this assignment, to pay to Mortgagee the rents, income, and profits due and to become due under the Lease. Owner agrees that lessee shall have the right to rely upon any such notices of Mortgagee that lessee shall pay such rents, income, and profits to Mortgagee, without any obligation or without any right to inquire as to whether such default actually exists and notwithstanding any claim of Owner to the contrary. Owner shall have no claim against lessee for any rents paid by lessee to Mortgagee. Upon the curing of all defaults or on payments due under or in the performance of any of the terms, covenants, or conditions of the said Obligation or of the said Mortgage, Mortgagee shall give written notice thereof to lessee and thereafter, until further notice from Mortgagee, lessee shall pay the rents, income, and profits to Owner.

5. Mortgagee shall have the right to assign Owner's right, title, and interest in said Lease to any subsequent holder of said Mortgage and to any person acquiring title to the mortgaged premises through foreclosure or otherwise. After Owner shall have been barred and foreclosed of all right, title, interest, and equity of redemption in said premises, no assignee of Owner's interest in said Lease shall be liable to account to Owner for the rents, income, and profits thereafter accruing.

6. Owner agrees to indemnify and hold Mortgagee harmless of and from any and all liability, loss, or damage which Mortgagee may incur under said Lease or by reason of this assignment, and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligation or undertaking to be performed or discharged by Mortgagee under said Lease or this assignment. Nothing herein contained shall be construed to bind Mortgagee to the performance of any of the terms and provisions contained in said Lease, or otherwise to impose any obligation on Mortgagee including, without limitation, any liability under the covenant of quiet enjoyment contained in said Lease in the event that the lessee shall have been joined as party defendant in any action to foreclose said Mortgage and shall have been barred and foreclosed thereby of all right, title, interest, and equity of redemption in said premises. Prior to actual entry and taking possession of the premises by Mortgagee, this assignment shall not operate to place responsibility for the control, care, management, or repair of said premises upon Mortgagee or for the carrying out of any of the terms and provisions of said Lease. Should Mortgagee incur any liability by reason of actual entry and taking possession or for any other reason or occurrence or sustain loss or damage under said Lease or under or by reason of this assignment or in the defense of any such claims or demands, Owner shall immediately upon demand reimburse Mortgagee for the amount thereof including interest at 6% costs and expenses and reasonable attorneys' fees, and Mortgagee may retain possession and collect the rents, income, and profits and, from time to time, apply them in or to said satisfaction of or reimbursement for said loss or damage.

7. Owner represents that Owner now is the absolute owner of said Lease with full right and title to assign the same and the rents, income, and profits due or to become due thereunder; that said Lease is valid, in full force and effect, and has not been modified or amended except as stated herein; that there is no outstanding assignment or pledge thereof or of the rents, income, and profits due or to become due thereunder; that there are no existing defaults under the provisions thereof on the part of either party, that the lessee has no defense, set off or counterclaim against Owner; that the lessee is in possession and paying rent and other charges under the Lease and as provided therein and that no rents, income, or profits payable thereunder have been or will hereafter be anticipated, discounted, released, waived, compromised, or otherwise discharged except as may be expressly permitted by said Lease. Owner covenants not to cancel, abridge, surrender, or terminate said Lease or change, alter, or modify the same, either to

reduce the amount of said rents, interest, and profits payable thereunder, or of any charge, after already so modified, and Lease, or make any assignment, or payment of principal or interest, or cancellation of the interest of the lessee in said Lease, or change the terms, covenants, or conditions of the Mortgage, or any of the terms, covenants, or conditions of the Lease, or change, alteration, or modification of the Lease, without the written consent of Mortgagee shall be null and void.

8. Owner agrees to execute and deliver to Mortgagee and hereby irrevocably appoints Mortgagee and its successors and assigns as its agent and attorney-in-fact to execute and deliver during the term of this assignment such further instruments as Mortgagee may deem necessary to make this assignment and any further assignment effective.

9. Said Lease shall remain in full force and effect irrespective of any merger of the interest of the lessor and lessee thereunder. Owner shall not transfer or convey title to said premises to any lessee without requiring such lessee in writing to assume and agree to pay the Obligation in accordance with the terms, covenants, and conditions of the Obligation as set forth in the Mortgage, and the payment to Mortgagee by such lessee of so much of the purchase price as shall be deemed necessary by Mortgagee in reduction of the outstanding principal of the Obligation, in the inverse order of maturity, which payment, if made during the period that said Obligation permits prepayment, shall include applicable prepayment charges as set forth in said Obligation. In the event said Lease permits cancellation thereof on payment of consideration and said privilege of cancellation is exercised, the payments made or to be made by reason thereof are hereby assigned to Mortgagee to be applied, at the election of the Mortgagee, to reduce the amount of the principal of said Obligation in the inverse order of maturity or to be held in trust by the Mortgagee as further security without interest for the payment of the principal and interest provided to be paid by the Obligation.

10. Owner will not alter, modify, or change the terms of any guaranties of the Lease or cancel or terminate such guaranties, nor consent to any assignment of the Lease or any subletting thereunder, nor request, consent, or agree to or accept a subordination of the Lease to any mortgage or other encumbrance now or hereafter affecting the premises without the prior written consent of Mortgagee. Owner will not consent to or permit a material alteration of or addition to the premises by the lessee without prior written consent of Mortgagee unless the right to alter or enlarge is expressly reserved by lessee in its Lease.

11. Owner will not execute any other assignment of the Lease or of any interest therein or of any of the rents payable thereunder. Owner will perform all of its covenants and agreements as lessor under the Lease, will not suffer or permit to occur any release of liability of lessee or the accrual of any right in lessee to withhold payment of rents. Owner will give prompt notice to Mortgagee of any notice of Owner's default received from the lessee or from any other person and furnish Mortgagee with complete copies of said notice. If requested by Mortgagee, Owner will enforce the Lease and all remedies available to Owner against the lessee in case of default under said Lease by lessee.

12. Notwithstanding any variation of the terms of the Obligation and of the Mortgage, including increase or decrease in the principal amount thereof or in the rate of interest payable thereunder or any extension of time for payment thereunder or any release of part or parts of the lands subject to the Mortgage, the Lease and the benefits hereby assigned shall continue as additional security in accordance with the terms of this assignment.

13. Mortgagee may take security in addition to the security already given Mortgagee for the payment of the principal and interest provided to be paid in or by the Obligation or by the Mortgage or release such other security, may release any party primarily or secondarily liable on the Obligation, may grant or make extensions, renewals, modifications, or indulgences with respect to such Obligation or Mortgage and replacements thereof, which replacement of said Obligation or Mortgage may be on the same or on terms different from the present terms of said Obligation or Mortgage, and may apply any other security thereto held by it to the satisfaction of such Obligation without prejudice to any of its rights hereunder.

14. Owner shall give Mortgagee notice immediately upon entering into a lease of any part of the above described real estate which lease is not heretofore listed and upon notice from Mortgagee to Owner to that effect, said lease shall be deemed included in this assignment as though originally listed herein.

15. Failure of the Mortgagee to avail itself of any of the terms, covenants, and conditions of this assignment for any period of time, or at any time or times, shall not constitute a waiver thereof. The rights and remedies of Mortgagee under this instrument are cumulative and are not in lieu of but are in addition to any other rights and remedies which Mortgagee shall have under said Obligation and Mortgage. The rights and remedies of Mortgagee hereunder may be exercised from time to time and as often as such exercise is deemed expedient.

16. No change, amendment, modification, abridgment, cancellation, or discharge hereof or of any part hereof, shall be valid unless consented to in writing by Mortgagee.

17. All covenants and agreements herein shall apply to, inure to the benefit of, and bind the respective heirs, executors, administrators, successors, and assigns of Owner and Mortgagee.

18. Owner is lessee of the land described in the attached Exhibit "A". Accordingly, the occupancy leases assigned to mortgagee are more properly called subleases.

IN WITNESS WHEREOF this assignment has been duly executed and sealed by Owner.

ST. BENEDICT DEVELOPMENT COMPANY

By Leon Petersen

By Katie F. Gasser, Trustee of the G. Walter Gasser Family Trust

By GFI, Ltd.

By [Signature]

STATE OF UTAH )  
COUNTY OF Salt Lake ) ss

On this 30th day of March, 1979, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Leon Peterson known to me to be the signer that executed the within instrument, and acknowledged to me that he executed the same as a joint venturer in St. Benedict Development Company, a Joint Venture.

Shelby W. Williams  
Notary Public in and for said county and state

My Commission Expires:

2-1-83

STATE OF UTAH )  
COUNTY OF Salt Lake ) ss

On this 30th day of March, 1979, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Katie F. Gasser, Trustee of the G. Walter Gasser Family Trust, known to me to be the signer that executed the within instrument, and acknowledged to me that she executed the same as the Trustee for the said family trust, a joint venturer in St. Benedict Development Company, a Joint Venture.

Shelby W. Williams  
Notary Public in and for said county and state

My Commission Expires:

2-1-83

STATE OF UTAH )  
COUNTY OF Salt Lake ) ss

On this 30th day of March, 1979, personally appeared before me Walter Gasser, who did say he is the general partner of GFI, Ltd, a Utah Limited Partnership, and he acknowledged to me that he executed the foregoing document for and in behalf of said limited partnership, a joint venturer in St. Benedict Development Company.

Shelby W. Williams  
Notary Public in and for said county and state

My Commission Expires:

2-1-83

EXHIBIT "A"

LEGAL DESCRIPTION

A parcel of ground located in Weber County, State of Utah, and described more particularly as follows:

A part of the Southeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base & Meridian, U.S. Survey: Beginning at a point which is North 0°26' East, 1591.33 feet along the Section line and North 89°34' West 406.76 feet from the Southeast corner of said Section 17, and running thence South 17°34' East, 241.40 feet; thence South 72°26' West 270.00 feet; thence North 17°34' West, 127.00 feet; thence South 72°26' West, 146.93 feet; thence North 0°26' East 145.10 feet; thence North 72°26' East, 89.92 feet; thence North 16°06' East, 89.71 feet; thence Easterly along the arc of a 582.06 foot radius curve to the left, 159.16 feet (Long Chord bears South 7°44' East, 158.66 feet); thence South 89°34' East, 94.24 feet to the point of beginning.

Subject to and together with a right of way for ingress and egress to and from said property being the Northerly 40 feet of the following described property: A part of the Southeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point which is North 0°26' East 884.32 feet along the Section line and North 89°34' West 66 feet from the Southeast corner of said Section 17, said point is also on the West line of existing county road and running thence North 89°34' West 1030 feet; thence North 0°26' East 827.50 feet; thence North 45° East 197.31 feet; thence South 45° East 100 feet; thence Easterly along the arc of a 549.06 foot radius curve to the left 427.08 feet; thence South 89°34' East 435.0 feet to the West line of County Road; thence South 0°26' West 740.01 feet to the point of beginning.

ALSO: Together with a walkway which extends between the Medical Professional Building and the Hospital.

ALSO: Together with an easement and right of way over and across the walkways and driveway of the following described property: A part of the Southeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base & Meridian, U.S. Survey: Beginning at a point which is North 0°26' East 884.32 feet along the Section line and North 89°34' West 66 feet from the Southeast corner of Said Section 17, (said point is also on the West line of an existing County Road); running thence North 89°34' West 1030.0 feet; thence North 0°26' East 827.50 feet; thence North 45° East 197.31 feet; thence South 45° East 100.0 feet; thence Easterly along the arc of a 549.06 foot radius curve to the left 427.08 feet; thence South 89°34' East 435.0 feet to the West line of a County Road; thence South 0°26' West 740.01 feet to the point of beginning. SUBJECT to a road across the Northerly 40 feet thereof.

A part of the Southeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point which is North 0°26' East 620.0 feet along the Section line and North 89°34' West 66 feet from the Southeast corner of said Section 17, (Said point is also on the West line of an existing County Road); running thence North 89°34' West 1030.0 feet; thence North 0°26' East 264.32 feet; thence South 89°34' East 1030.0 feet to the West line of County Road; thence South 0°26' West 264.32 feet to the point of beginning. As set forth in that certain Notice of Claim of easement dated December 19, 1978, recorded March 13, 1979, as Entry No. 769885, in Book 1291, page 443, of Records.